UNIVERSITY OF ALBERTA

# AN EXAMINATION OF THE RELATIONSHIPS BETWEEN FIRST NATION SCHOOLS AND DEPARTMENTS OF EDUCATION IN ALBERTA, SASKATCHEWAN AND MANITOBA

BY

SYDNEY ROBERT PAULS ©

A THESIS
SUBMITTED TO THE FACULTY OF GRADUATE STUDIES AND RESEARCH
IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE
DEGREE OF DOCTOR OF PHILOSOPHY

DEPARTMENT OF EDUCATIONAL POLICY STUDIES

EDMONTON, ALBERTA

FALL, 1996

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ISBN 0-612-18093-X

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NAME OF AUTHOR: SYDNEY ROBERT PAULS

TITLE OF THESIS: AN EXAMINATION OF THE RELATIONSHIPS BETWEEN FIRST NATION SCHOOLS AND DEPARTMENTS OF EDUCATION IN ALBERTA, SASKATCHEWAN AND MANITOBA

DEGREE: DOCTOR OF PHILOSOPHY

YEAR DEGREE GRANTED: FALL 1996

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# ABSTRACT

In this thesis is examined the present state of the relationship between First Nation schools and provincial departments of education. Data were collected in three provinces; Alberta, Saskatchewan and Manitoba, by reviewing the available legislation and policy documents, and by interviewing a variety of persons currently engaged in an administrative relationship. Interviews were conducted with persons from the provincial departments of education, the province wide Indian organizations, the Tribal Councils, and, most important of all, administrators from First Nations.

When the perceptions and insights of the participants were analyzed, several areas of commonalty were obvious. In the area of present services it was obvious that there were a variety of administrative services being provided to First Nation schools by provincial departments of education despite the fact that there was no legislative or policy base for this to occur. Issues related to curriculum development and adaptation and tuition agreements were other topics which the participants frequently brought forward.

The development of First Nation jurisdiction and governance was also an issue upon which many participants commented. Closely tied to this issue was the desire to protect treaty promises and the trust relationship, but to do so in a way that would not restrict First Nation autonomy.

The thesis concludes with an examination of some of the issues and challenges for the future. While there is a great deal of variation in the opinions expressed by the participants, the underlying issues are: (a) the desire for self-government in a milieu that will not disturb promises made in treaties, (b) the need to determine political representation so that it is understood which organization speaks for which other organizations, and (c) a need for some type of relationship, based on equality, with the provincial agencies.

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# CHAPTER I

# INTRODUCTION TO THE STUDY

During the past twenty years, I have had the pleasure and privilege of working closely with and for a variety of Indian organizations. I believe strongly in the development of aboriginal self-government and I believe that the control and management of education is an early step in the development of systems of self-government.

As an administrator in a First Nation school system I have been intimately involved in negotiations and discussions involving the First Nation, provincial, and federal governments, and the province wide Indian organization regarding the relationship between First Nation schools and the provincial department of education. I have undertaken this research to identify some of the existing relationships between First Nation education systems and provincial departments of education; to identify problems which First Nations have encountered in establishing inter-governmental relationships; and to make some suggestions for future development of the relationship. It is my hope that this research will contribute positively to the continued development of First Nation education.

## Historical Background

The British North America Act, now called the Constitution Act of 1867, divided governmental powers and responsibilities between the federal and provincial governments. Section 91 outlined the powers of the federal government while sections 92 and 92A (added in 1982) detailed the powers of the provinces. A separate section (section 93) gave the exclusive power to make laws in relation to education to the provinces (Minister of Supply and Services, 1989, pp. 26-32). The original Constitution Act did not recognize the existence of aboriginal governments despite the fact that treaties had been signed between the Crown and the First Nations. Rather, Section 91 of the Constitution Act of 1867, sub section 24, gave the federal government responsibility for Indians. As a result, the education of Indian and Inuit peoples has been defined as a federal rather than a provincial responsibility.

The responsibility of the federal government for Indians is therefore a result of the treaties which were signed between the Indian Nations and the Crown, and the division of powers in the Constitution Act of 1867. As the representative of the Crown in Canada, the federal government is responsible for maintaining the Crown's promises to Indians as contained in the treaties (Bezeau, 1984). The numbered treaties, the majority of which were signed in the 1800s, contain education clauses which, although somewhat different from treaty to treaty, essentially state that Her Majesty's government shall establish a school on the reserve whenever the Indians of the reserve shall request one (Morris, 1991).

Historically, the federal government said it was living up to its commitment by providing education to Indians in a variety of ways. The delegation of schooling for Indian students to religious institutions and the signing of long term comprehensive tuition agreements with provinces were two ways which were used (Daniels, 1973). During the 1950s and the 1960s the Department of Indian Affairs built and operated schools on some reserves and that situation remained until 1969 when the federal government and the Department of Indian Affairs decided that a major change in its relationship with Indians was in order.

In 1969, the government brought forward a White Paper that proposed a shift in responsibility for Indians from the federal government to the provinces. The Indian people recognized this as a threat to their treaties and the special relationship they have to the Crown through those treaties. A massive backlash followed the announcement of the White Paper and various Indian political organizations began to plan for how they might take greater control over their own lives while ensuring that their special treaty relationship would be preserved. One of the things which was suggested in the early 1970s was Indian control of Indian Education. It was felt that individual First Nations should have direct control and authority over the school their children were attending. This policy was accepted by the federal government and most First Nations, who wish to do so, now have management of their own schools.

## Statement of the Problem

Despite the rapid increase of First Nation schools since 1973 there has not been very much advanced planning on the part of Indian Affairs or the federal government to provide for the smooth transition of the operation and management of the schools to the First Nation. When a First Nation decides to assume the management of its school, there are a series of criteria to which Indian Affairs insists the First Nation agree. One of these criteria is that the First Nation follow the basic provincial curriculum, although there are no provisions as to how that might be accomplished. The First Nation schools are independent organizations funded under the constitutional and treaty responsibilities of the federal government and, therefore, do not fall under the jurisdiction of the provincial departments of education. Therefore, access to provincial curricular materials is not automatic.

As independent schools, whose funding comes from the federal government but whose curriculum comes from the provincial government, First Nations are caught between these two jurisdictions. In addition to this problem the recent and on-going development of First Nation governments creates another level of government which must be recognized and which may have a significant impact on the administration of First Nations education.

The focus of this study was on examining the procedural and jurisdictional issues surrounding the relationship between First Nation schools and provincial departments of education and identifying possible alternative and future relationships.

## Research Questions

The purpose of this study was to examine practices, assumptions, and issues surrounding articulation and regulatory processes existing between First Nation schools and the provincial departments of education. Specifically, the study was designed to accomplish the following:

1. Examine present legislation and policy statements related to Indian education and identify issues.

2. Document the understandings of representatives of provincial departments of education, education officials of the province wide Indian organizations, and representatives of First Nation education systems, regarding the present and future connections and associations between First Nations and provincial departments of education.

3. Identify and examine policy initiatives and alternatives which the participants suggest to (a) make the articulation processes easier and more successful, and (b) envisage the foci of future developments in the relationship.

## Assumptions

1. It was assumed that some of the aspects of the regulation and articulation relationships which the participants would discuss would be jurisdiction, administrative services (e.g. teacher certification, curriculum certification, locally developed programming options) and tuition agreements.

2. My experience in the field of Indian education and my belief in the importance of First Nation schools would influence interpretation of the gathered data. While this is not necessarily negative, I was cognizant that these preconceptions would play a part in the development of the

research.

3. As a result of the philosophical base in which the study was rooted the study may not provide widely generalizable results or recommendations. However, by examining the perceptions of a number of interested, involved and informed persons it would be possible to identify some commonly held concerns, perceptions, ideas, and recommendations.

4. Based on my experience, there was a perceived need for some type of relationship, either informal or formally structured, between First Nation schools and provincial departments of education. However, the possibility existed that the Indian organizations, the province, or even some of the First Nations might not share this perception.

5. The design and conduct of the study would evolve as the study progressed. Participant/researcher interaction would continuously refine and modify the study.

## Limitations

1. Interviewees were chosen on the basis of personal knowledge of those who might be informed of, and interested or involved in, the regulatory issues. The advice of others was sought as to whom it might be useful to interview. Despite this, it was not possible to be informed of every person who might have contributed positively to this study.

2. Other aspects of Native education such as urban Indian education, Metis education, and Inuit education were not considered in

this study. This may mean that important sources of information relevant to inter-governmental relationships were not examined.

## Delimitations

1. The study was confined to Alberta, Saskatchewan and Manitoba. In these provinces most First Nations have chosen to operate their own schools, and so are involved in the regulatory and articulation processes, the examination of which formed the purpose of this study. The First Nations in these provinces have also signed treaties which have similar education clauses and, therefore, their school systems have developed from a similar framework.

2. The Department of Indian Affairs did not play a large role in this study. In recent years Indian Affairs has withdrawn from its previous role of managing Indian education and is now exclusively the funding agency. Their role in the day to day management of First Nation schools and, therefore, in the regulatory and articulation issues explored by this study, is minimal.

3. The study was confined to the concerns of First Nation schools and their relationship with the provincial department of education.

4. The examination of the articulation and regulatory processes was restricted to those processes which were applicable to the K-12 in-school program. Similar processes which may exist for post-secondary programming were not considered.

## Significance of the Study

This study has significance because it will identify present practices and problems experienced by the constituent groups as they engage in the articulation processes. The continuous progress of Indian Nations towards self-government means that the relationship processes between aboriginal governments and other levels of government will have to be defined. As one of the indicators of self-government, articulation processes used in education may establish patterns of engagement which may be useful to other aspects of inter governmental relationships.

### Significance for the First Nations

The study is timely since the discussion of Indian self-government is of current concern to all levels of government and to Canadians generally. Indian peoples see continued progress towards self-government to be essential for the survival of their Nations. Control over the education of their children is one of the primary indications of a self-governing people and, therefore, this study will be of interest to many First Nation governments.

Those First Nations who are currently operating their own schools will find it useful to examine the combined experience of a number of other First Nation schools and organizations. This will be true for those whose school systems are well developed as well as for those whose school systems are developing and increasing in complexity. First Nations who have yet to take over their education system may find useful suggestions for beginning a relationship with the provincial department of education.

### Significance for the Departments of Education

In many cases the provincial authorities do not realize or recognize the difficulties faced by First Nation schools. In some provinces the governments are trying to establish some means for communication between themselves and the Bands. I believe that this study will provide a useful description of some existing relationships as well as a compilation of views as to how the relationship should develop. Hopefully, this will lead to better understanding and communication.

### Significance for the Department of Indian Affairs

Although the Department of Indian Affairs' present role is restricted to being the funding agency without a program delivery function, they still have a fiduciary responsibility, as a result of the Indian Act and the treaties, to ensure that Indians are receiving appropriate education. Therefore, the articulation processes between First Nations and provincial governments may be of interest as an indication of the progress of First Nation schooling. It may also indicate to Indian Affairs where it may wish to make policy or funding amendments to assist the First Nations in establishing a mutually beneficial working relationship with the provinces.

### Significance for Educational Administration

The study will also be important to the field of Educational Administration since it will expand the knowledge base regarding Indian controlled schools. There are increasing numbers of First Nation schools and well qualified administrators are being hired to work in them. Research in the operation of such schools and an examination of the differences and special problems associated with the schools will add to the knowledge of these Indian controlled systems. In the past twenty years in Educational Administration at the University of Alberta, there have been two doctoral dissertations, nineteen years apart, concerning Indian education. This study will provide further information regarding the regulatory and articulation difficulties being experienced by First Nation schools and will add to the knowledge base concerning Indian education.

## Definitions

The following terms will be used throughout this document. In order that their meanings be understood they will be used as defined below.

1. Band: According to the Indian Act a Band is; "(a) a body of Indians for whose use and benefit in common, lands, the legal title to which is vested in Her Majesty, have been set apart; (b) for whose use and benefit in common, monies are held by Her Majesty; or (c) declared by the Governor in Council to be a band for the purposes of this Act" (Hawley, 1986, p. 1).

2. First Nation: This term originates with the French explorers who first referred to the "Nations of Indians" and the word is also used in the

Royal Proclamation of 1763. Recently the term has taken on renewed political significance (Krotz, 1992, p. 155) as aboriginal peoples, including treaty and non-treaty Indians and Metis have referred to themselves as First Nations. In this document wherever this term is used its meaning will be in relation to treaty Indians.

3. First Nation school: These are schools which are located on reserves and managed by the First Nation governments as a result of signed funding contribution documents between the First Nation and Indian Affairs.

4. Indian: According to the Indian Act, a person entitled to be registered as an Indian in the Indian Registry (Hawley, 1986, pp. 9-10). Since 1985, Indian Bands have had the authority to implement their own membership codes and define who is entitled to be a member of their Band and therefore be registered as an Indian (Hawley, 1986, p. 9).

5. Indian Act: The Indian Act is the federal legislation which defines who an Indian is and what the relationships between the federal government and Indians shall be. The Act has developed into a document reflecting the jurisdictional and administrative concerns of the federal government rather than as a means to effect the promises, agreements, and obligations contained in the treaties.

6. Indian Affairs: This refers to the federal Department of Indian Affairs and Northern Development (DIAND), previously named Indian and Northern Affairs Canada (INAC). The terms Department of Indian Affairs or Indian Affairs will be used in this document.

7. The National Indian Brotherhood (NIB): This is the national organization of Indians who responded to the 1969 White Paper by proposing their own Orange Paper which demanded Indian control of Indian education. The NIB is now called the Assembly of First Nations (AFN).

8. Native: A comprehensive term used to describe people of aboriginal ancestry. This term includes status and treaty Indians, non-status Indians, Metis, and Inuit.

9. Province wide Indian organization: These are Indian political organizations which exist in all provinces and are designed to lobby governments on issues that are of concern to all Indian people.

10. Reserve: This is a portion of land set aside for the exclusive use of Indians. The amount of land was determined at the time of the signing of treaty, based upon population. There are on-going land claims negotiations since not all land entitlements have been fulfilled.

11. Treaty: A treaty is a document signed between the Crown and individual Indian Nations allowing settlement of Canada by non natives. Courts have interpreted treaties to be neither contracts, nor international agreements, but rather *sui generis* ; something else. There is ongoing debate over whether the land was actually surrendered or if only the use of the land was included in the treaties (Price, 1979, pp. 113-160). There is also debate as to whether or not the natural resources of the country, including those above ground as well as mineral resources, were given up in the treaty making process. Finally, no mention was contained in

treaties regarding the surrendering of the Indians' inherent right to self-government.

12) Tribal Council: A group of individual First Nations who have amalgamated for service delivery or political purpose. In some cases Tribal Councils were arbitrarily established by Indian Affairs so that they would have an institution to which to devolve service delivery responsibilities.

## Colonialism

At this point I would like to provide a brief description of the colonial attitude present among 18th and 19th century Europeans. I believe that the history of Indian/White relationships in Canada are intertwined with colonial attitudes and can be understood in the light of colonialism. I also see some similarities in the present Indian reaction to other governments with the typical reaction of the colonized to the colonizer. I recognize that there are many differences between classic colonial and post-colonial theories, but colonialism, and the reaction to it, may be useful ways to examine the present status of Indian peoples.

The states of Europe who built overseas empires in the seventeenth to nineteenth centuries did so as a result of a variety of socio-economic phenomena occurring in Europe which they interpreted as giving them the right to colonize less "civilized" peoples. It is not my purpose to embark on a study of colonialism or imperial empire building, however it may be useful to remind readers of some of the underlying themes of colonialism. The theories of Charles Darwin regarding evolution and survival of the fittest reinforced European belief that their societies had survived and were advanced and therefore must be the "fittest". As well, the economic expansion of the industrial revolution meant that new sources of raw materials and new markets for industrial production needed to be found. Europeans "saw characteristics in Indian people which they designated as inferior and which gave them the moral authority to impose their own version of civilization" (Pauls, 1996, p. 24). Wilson (1986) stated the conditions preceding European colonial expansion:

> In 1492 European culture and society were in a state of violent change. The feudal system was collapsing and a new mercantilist economy, based on an unequal exchange between producers and the processors of raw material, was becoming increasingly important. The crusades against Islam had served both to heighten Christian intolerance of other faiths and to open new markets for trade, and thus had directly stimulated the kind of voyages that Columbus and others undertook with the joint motive of making money and saving pagan souls. (p. 10)

Europe was also increasing in population and the new mercantile economic system meant that there were increased numbers of persons with available capital. These facts were interpreted by Europeans to mean that Europe was the acme civilization and that all others were inferior. This also allowed colonizers to treat the indigenous populations as subhuman and to use this as an excuse for the practice of genocide. In an introduction to the 1957 edition of Memmi's (1990) book, Jean-Paul Sartre stated:

> Colonialism denies human rights to human beings whom it has subdued by violence and keeps them by force in a state of misery and ignorance which Marx would rightly call a subhuman condition. (p. 22)

Colonial countries assigned themselves the mission to "improve" not only the land but also the aboriginal inhabitants of the land. In the 1990 edition of Memmi's book, an introduction by Liam O'Dowd clearly illustrates the attitude of the colonizer to the colonized:

> "Settlers" see their improving mission as an expression of their own "eminent merits": their technical and scientific prowess, their more rational forms of religion, their greater entrepreneurial capacity, their greater sense of social discipline, their superior welfare systems, roads and hospitals. (p. 43)

To these attitudes of assumed superiority were added the desire of the Christian churches to seek new converts and their belief in a kind of theocentrism which blinded them to the value of the religious beliefs of other cultures and gave them the license to convert the "heathen".

## Application to Aboriginal Peoples

The above principles of colonialism are applicable to the study of relationships between aboriginal peoples and European nations. There are many similarities between these colonial principles and the treatment of aboriginal peoples in North America, Australia, and New Zealand. Downing (1993) defined colonized peoples as:

> Colonized peoples are human groups who hold what has come to be called "fourth world" status. They are those who live on or near their original homeland *without* the authority to determine their own destiny, and in a disproportionate context of poverty and/or other social problems. (p. 91)

Perley (1993) identified factors which he stated are indicative of the state of colonization in which the Indian people of North America live:

> Some of the factors are (a) displacement of Aboriginal peoples by European expansion; (b) isolation and containment of Aboriginal people inherent in the reserve system; (c) forced assimilation of Aboriginal societies; (d) increasing political and economic domination of reservation affairs by the colonizers; and (e) the development of racist ideology portraying Aboriginal peoples as backward, savage, uncivilized, and childlike. (p. 120)

All of these factors are evident in the historical relationship between Indians and the Canadian government. To an extent these factors continue to be present and suggest that the colonial period is not yet over.

Colonialism is often discussed in the past tense using the term "post-colonialism". While that may be true for the countries of Africa or Asia whose populations have reasserted their sovereignty over land and resources and have assumed government from a privileged minority, the situation of North American Indians is different. They have been systematically dispossessed of the land and have become a minority within their own former territory. They have been placed in a trust relationship that encourages paternalism on the part of the government and dependency on the part of the Indians. For these people the question of whether or not the colonial period has ended is debatable:

> It can be said that colonialism is a process, one which I don't believe Native Americans are finished or have had time to process. But before we can enter into a discussion of decolonization, we first have to identify in the immediate social conditions the ways in which we are still in the grasp of colonization. (Bird, 1992, p. 46)

## Colonial Similarities

There are some definite parallels which can be drawn between the colonial relationship which existed between England and India, for example, and either England or France and the First Nations of North America. Economic exploitation was obviously the first reason for European interest in North America. The search for precious metals and then later for fish and for fur pelts provided the impetus for early contact between Europeans and First Nations. Particularly, the trade in fur was to last more than 150 years and was to define the relationship between the Europeans and the First Nations in the territory now known as Canada. One need only read a few accounts of some of the trading practices of the Hudson's Bay Company and the Northwest Company to realize that the motive for trading was not mutual benefit for the trading partners but exploitation by the Europeans of the First Nations people.

Ethnocentrism also played a large part in the relationship between the Europeans and the First Nations. The establishment of schools to impose Christianity and to try to eliminate Indian beliefs is a good example of ethnocentrism at work. The failure to recognize the worth or even the existence of a different world view is another manifestation of ethnocentrism. As a result of these views, there has been an attempt by the religious institutions, supported by successive political administrations, to engage in cultural genocide.

These patterns of economic exploitation and ethnocentric interpretation of indigenous culture are common themes in the colonial relationships found in many parts of the world. In these terms the relationship between Indians and European powers can definitely be thought of as colonial.

### Colonial Dis-similarities

The colonial model breaks down somewhat when the special case of First Nations people is examined. First of all, in the colonized countries of Africa and Asia the original population remained greater than the population of colonials. Thus, while the indigenous population might be subjugated, the fact that they were still a majority meant that they could better resist attempts at cultural genocide. In North America, the colonial population soon outgrew the indigenous population and that meant that Indians were surrounded by cultural influences over which they had no control. As well, colonized populations in Africa or Asia retained land rights, or regained land rights in the post-colonial period, whereas in North America Indians were systematically deprived of possession of the land.

As a result of being overwhelmed by the sheer numbers of colonists, the Indians soon found themselves marginalized economically and socially. One of the original reasons for colonization was the economic exploitation of fur bearing animals. Once that need was no longer present, there was no longer a need for the persons who supplied fur pelts; the Indians. Similarly, competition between English and French colonial interests meant that both sides engaged Indians as military allies (Armitage, 1995, p. 70). Once the dominance of Britain over France in the

Canadian colonies was established, the need for Indian allies disappeared. As their populations declined and as they were no longer economically or militarily necessary, the Indians were allowed, or perhaps encouraged, to inhabit the margins of society.

As a part of this marginalization, the process of treaty making occurred. One effect of treaty signing which makes the relationship between Indians and government presently different from the classic colonial relationship is the fact that the European powers adopted an attitude of paternalism towards the Indians. Even the Royal Proclamation of 1763, which is considered the guarantee of Indian self-government, contains statements that His Majesty will protect the Indians. Certainly the treaties all contain clauses which indicate that the Crown will assume a trust responsibility for Indians.

The present Indian Act and the Indian Affairs bureaucracy still operates under this attitude of paternalism and this paternalism distinguishes the Indian/European relationship as something other than classic colonialism. The fact that many of the treaty promises have been broken and the fact that paternalism, originally designed to protect, has now become a major obstacle to the progress of First Nations is a stumbling block for First Nations attempting to re-establish control over their own lives.

## Reactions to Colonialism

According to Albert Memmi (1990) in a translation of his 1957 work, the process of decolonization is marked by one of two attitudes of the colonized to the colonizer. The first is total acceptance of the practices and beliefs of the colonizer by the colonized. The second is the rejection of the colonizer and a struggle to define new and separate beliefs and practices from what is left of the colonized's traditional culture.

Diderot, as quoted in Pagden (1995), suggested that there is a third possibility:

> He constantly holds up the possibility that, at some time in the future, the colonizers and the colonized might combine to form a new society for which we might all have greater hopes than we can at present have of any existing community 'civilized' or 'savage'. (p. 146)

One would be hard pressed to think of an example where this is true. Certainly in any example of colonialism with aboriginal peoples where the colonizer is now the dominant group, there is no example of combining to form a new civilization. However, it is interesting to note that some Indian Elders say that the only way modern white civilization will survive is to adopt many of the traditions and practices of Indians. The Elders also forecast that when this happens there will be a great cultural revival of Indian people.

### Acceptance of the Colonizer

In this situation the colonized sees no other possibility for advancement than to accept the ways of the colonizer. Price (1983) suggests that in a colonial relationship it may be to the advantage, at least economically, of the colonized to accept integration:

> Under the conditions of conquest and displacement by state societies, participation by primary societies in colonial enterprises has usually been of greater benefit than non-participation or protracted military opposition, with benefit measured by such criteria as health and population growth. (p. 14)

However, in order to make this step the colonized must give up their own culture. This decision is clearly demonstrated in Armitage (1995) when discussing some of the Maori who decided to accept Pakeha (white) culture:

> This group was characterized by its wholesale adoption of Pakeha culture and its readiness to scrap the surviving elements of its own. To them Maori society was degraded, demoralized, irreligious, beset with antiquated, depressing, and pernicious customs. Their task was to reconstruct this society to make the race clean, industrious, sober and virtuous. (p. 144)

The acceptance of all of the attitudes of the colonizer and the colonized's belief that their own culture was inferior is exactly what the colonizer had been seeking through the process of controlling schooling, religion and the economy of the colonized. Through control of these social institutions, the colonized has been made to accept the negative and derogatory stereotypical image the colonizer has constructed.

Complete acceptance of the colonizer culture and the rejection of their own culture makes individuals unpopular and viewed as being untrustworthy by their own people. However, the colonized who choose this route are convinced that the personal benefits will be worth any ostracization they may encounter. Memmi (1990) stated:

> The first attempt of the colonized is to change his condition by changing his skin. There is a tempting model close at hand -- the colonizer. The latter suffers from none of the deficiencies, has all rights, enjoys every possession and benefits from every prestige. The first ambition of the colonized is to become equal to that splendid model and to resemble him to the point of disappearing in him. (p. 186)

Those who choose this route are particularly disappointed when they find that the colonizer will not fully accept them either (Memmi, 1990, pp. 185-192).

## Rejection of the Colonizer

According to Memmi (1990) rejection of the colonizer is the only other alternative available to the colonized. In the extreme this could take the form of revolt and Memmi suggest that this may be inevitable:

> However, revolt is the only way out of the colonial situation, and the colonized realizes it sooner or later. His condition is absolute and cries for an absolute solution; a break and not a compromise. He has been torn away from his past and cut off from his future, his traditions are dying and he loses the hope of acquiring a new culture. He has neither language, nor flag, nor technical knowledge, nor national or international existence, nor rights, nor duties. He possesses nothing, is no longer anything and no longer hopes for anything. (p. 194)

Herder, as cited in Pagden (1995), also believes that there is no possibility of reconciliation or combination between colonizer and colonized. When discussing colonized nations he stated: "The impact of European domination on such new nations will be, if anything at all, merely pernicious" (p. 147).

Jean Paul Sartre, as cited in Cranston 1969, went even further in suggesting that violent change is the only way for the colonized to rid themselves of the effects of the colonizer:

> Imperialism itself is violent and no gentleness can efface the marks of violence; only violence can destroy them. The Native cures himself of colonial neurosis by thrusting out the settler through force of arms. (p.73)

Sartre re-emphasizes this extreme view when discussing colonialism as a form of violence:

> The government does not argue; it either oppresses or kills. Since repressive violence is inevitable, there is no solution for the colonized country but to oppose violence with violence. (Sartre, 1977 p. 154)

Sartre does not recognize that colonization can proceed by means other than violence. It may be that the colonizer is able to convince the colonized that the negative stereotypes held by the colonizer are true and the only way to "better" themselves to accept the ways of the colonizer. As Memmi points out, that path leads to failure and eventual rejection of the colonizer.

The rejection of the colonizer, violent or not, attracts two groups of the colonized. When the colonized discover that whatever they do to fit in and accept the beliefs and practices of the colonizer they will still not be accepted, they then turn to radical rejection of the colonizer. The second group are those who stubbornly retained their own beliefs and practices despite the efforts of the colonizer to change them. When conditions are correct these two groups reject the colonizer and seek to discover their own ways of doing things; either as a resurrection of old ways or as the creation of new ways that are referenced to their own beliefs rather than to those of the colonizer (Memmi, 1990, pp. 193-205).

Price (1983) when discussing the self-government movements suggested that since a return to the past is impossible, these movements towards self-government must use modern processes and technologies which integrate them more into the dominant society rather than allowing them to exist as separate entities:

> These movements use a validating rhetoric of the return to an ecologically sound and socially healthy golden age of the past. Such movements call for land controls, aboriginal rights, and a special status as a founding race and culture. Typically, these movements call for less integration but, at the same time, the most integrated kinds of organizations and means are created in the process so the actual result is an increase, rather than a decrease, in integration to the state. Thus band heritage societies have recently created large political organizations, employ advanced print and electronic communications, and use such modern weapons as political lobbying, court actions, and civil disobedience. (p. 4)

This seems to suggest that unless Indians use smoke signals and retain traditional small scale political activity then the move for self-government is self defeating. I'm not sure that Indians who feel that they have vibrant and living cultures would agree with this sentiment.

Nonetheless, obviously a return to completely traditional practices is impossible for two reasons. First, the colonizer has systematically destroyed the colonized's culture. Second, traditional ways of doing things may no longer meet the needs of a modern culture. Therefore, a period of isolation may be a necessary for the colonized to engage in a period of re-construction of traditional practices, or the construction of self-referenced institutions and practices which reflect the modern reality, before they are ready to enter into negotiations with the larger society. Armitage (1995) when discussing Aboriginal self-government in Australia stated:

> [Self-government], their ultimate goal, requires a period of separation first; the development of group cohesion, an awareness of the need for political and economic strength, a feeling of power arising out of knowing who they are; followed then by free participation in society at large, on their own terms. (p. 40)

A casual glance at the newspapers over the past five years also indicates that Indian people are increasingly willing to use force to support their demands for negotiated solutions to land claims and for the recognition and development of self-government. In Memmi's terms, these are the natural consequences of a re-awakening of the Indian self-concept and a rejection of the colonizer.

## Summary of Colonialism

In order for colonialism to be successful there had to be certain conditions of economic expansion and religious theo-centrism present in the "mother" country. These conditions made it possible for the colonizing nations to ignore the aboriginal cultures which they found in other parts of the world. The European's belief that their cultures and societies were in every way superior to the aboriginal cultures and their belief that they had a God given duty to spread "civilization" to the "heathen" provided the motivation and the rationalization for the most terrible acts of genocide.

Rationalizing their own actions was insufficient to ensure the smooth exploitation of the colonies for the benefit of the mother country. It was necessary to denigrate and subjugate aboriginals so that they came to believe the stereotypical descriptions of themselves and behave in accordance with expectations. This acceptance of the attitudes of the colonizers was necessary to maintain peace and the privileged position of the colonizer. Bird (1993) made this point when discussing modern day Indians' problems in realizing that their's is a vibrant and living culture not the static and fading culture which the colonizers have managed to convince Indians to believe:

> I cannot help but view the world around me as evidence that we are living with the results of our colonization: that the image of "the end of the trail" is popular on the reservation reminds me every time I see that image . . . that we as a people buy into the notion of ourselves as "vanishing". That image of ourselves as "dying" pervades not only the ways we have all been taught to view ourselves as Othered and vanishing from the outside in, but can also be viewed as the successful colonization of our minds. What I am attempting to do is to find ways of decolonizing the mind. (p. 1)

The colonized have traditionally reacted by either accepting the colonizer's ways or rejecting them. Sometimes these reactions are sequential after the colonized realizes that true acceptance by the colonizer is unlikely.

The discussion of the nature of colonialism was meant as background information for the consideration of the present situation of the Indian people in Canada regarding self-government and education. As was noted earlier the model may not fit precisely. Indeed, as Bird (1992) pointed out, the whole discussion revolving around post-colonialism for Indian may be a myth:

> I find it increasingly difficult to reconcile a "post-colonial" state to what I know of the real lives of people I know back home. "Post-colonial" implies that the time of colonization is past, that we are at a point of comfortable distancing ourselves from the nature of the relationship between the colonizer and ourselves as colonized peopled. It appears to me that we are still in the process of colonialism, and it is from this position that I enter what is called, for lack of a better term, post-colonial discourse. (p. 41)

Anyone who is familiar with the paternalistic attitude of Indian Affairs and the controlling and suffocating nature of the Indian Act would likely be in sympathy with Bird's views. Nonetheless, the discussion of colonialism and post-colonialism may be a useful context in which to place the present development of First Nations.

# CHAPTER II

# METHODOLOGY

The purpose of this chapter is not to champion one particular research paradigm over another. Rather it is to inform the reader of the roots of the methodology used to discover and analyze data. I believe that this knowledge will be useful to the reader so that they can more fully understand what is to come.

## Methodology

The research questions stated earlier were examined by: (a) a review of the present provincial legislation and policy, as well as federal government documents and policy statements relating to Indian education; (b) a number of interviews with representatives of provincial departments of education and the education officers of the province-wide Indian organizations; and a number of interviews with representatives of First Nation education systems and provincial education organizations who are, together, actively engaged in an articulation process.

The research methods that were used are rooted in a particular paradigmatic framework. Some have suggested that the paradigm wars are over and Howe (1992) concluded that we should get over the quantitative/qualitative debate and get on with research. Bednarz (1985), Firestone (1987), and Keeves (1988) warned about researchers being concerned more about the rhetoric of the paradigms than with the results of research. With these warnings in mind, it is still important that the philosophy in which the research is imbedded should be explained and clearly stated to the reader. Only in this way can there be understanding of the methods used to collect data as well as the sense that was made of them.

## The Constructivist Paradigm

The positivistic means of conducting research through the use of the scientific method and empirical testing and observation have been questioned and a variety of alternative paradigms have been suggested. The challenge to positivism is not new and the historical development of alternate research paradigms is not the topic of this discussion. However, the following quote may illustrate some researchers' opinions regarding the usefulness of positivistic research. Albert Einstein, commenting on the state of positivism, said:

> I think that the positivistic nag, which originally appeared so frisky, . . . has become a somewhat miserable skeleton and has become addicted to a fairly dried-up petty-foggery. (Bartley, 1987, p. 16)

Partially in response to the type of criticism illustrated above, some researchers determined that the only "truth" that exists is constructed by individuals and is not necessarily universally true. This constructivist paradigm is variously called the naturalistic, hermeneutic or interpretive paradigm (Guba & Lincoln, 1989, p. 83). For purposes of this study, the term constructivist will be used.

A simple definition of the constructivist paradigm would be to say that there is no independent reality and that individuals are responsible for creating their own reality from their perception of situations. This is not a new thought. The ancient Greek philosophers debated the nature of knowledge and several of the disciples of Socrates defined knowledge as perception (Feyerabend, 1991, pp. 24-25).

John Dewey is probably one of the best known early proponents of the concept of perception being a description of reality (Dewey, 1948; Dewey & Bentley, 1949; Crosser, 1955; Bernstein, 1960; Thayer, 1969; Tiles, 1990). His description of truth is particularly apt: "truth is an abstract noun applied to the collection of cases, actual, foreseen and desired, that receive confirmation in their works and consequences" (Dewey, 1948, pp. 156-157). Earlier in the same work he stated, "since there is no faculty of 'Pure Reason' in the possession of mankind, we must put up with what we have, experience, and make the most possible out of it" (p. 78). Finally, he said, "Only by direct active participation in the transactions of living does anyone become *familiarly acquainted* with other human beings and with 'things' which make up the world" (Dewey, 1949, p. 169).

More recently Lincoln and Guba have written extensively about constructivism (1982, 1987, 1989, 1990) and their work will constitute the basis for the description of constructivism which follows.

Under the headings of ontology, epistemology, and methodology, the following sections, will offer a description of the constructivist paradigm.

## Ontology

Guba and Lincoln (1989) phrase the ontological question by asking "What is there that can be known?" (p. 83). As Guba (1990) said:

> The basic belief of positivism is rooted in a *realist* ontology, that is, the belief that there exists a reality *out there* driven by immutable natural laws. The business of science is to discover the 'true' nature of reality and how it 'truly' works. (p. 19)

According to positivists, it is the business of science to discover these underlying "true" natural laws in order to be able to predict and control the human environment.

As opposed to the positivistic belief in an independent reality, constructivists assert that there are multiple realities possible as individuals attempt, through interaction with others, to make sense of the world around them (Guba & Lincoln, 1989). Feyerabend (1988) stated the same thing in terms of human societies when he said: "People starting from different social backgrounds will approach the world in different ways and learn different things about it" (p. 3). Johnson (1992) noted: "Truths there are, many of them, but there is no such thing as *The Truth* " and later: "If you think you have *the* answer -- you are wrong" (pp. 263-264). Michel Foucault (1977) stated:

> Truth isn't the reward of free spirits, the child of protracted solitude, nor the privilege of those who have succeeded in liberating themselves. Truth is a thing of this world; it is produced only by virtue of multiple forms of constraint. (p. 131)

Finally, Butler (1984) insisted that "Inquiry should account for realities that are socially constructed through individual experiences" (p. 3).

The constructivist paradigm is, therefore, relativist with constructions of reality depending upon the knowledge, sophistication and interest those involved bring to the task. There are many constructions which are commonly held by a society but that does not mean that they are real. Foucault in his book The order of things (1973) illustrates how widely held societal beliefs from the past can now seem to be utterly ridiculous:

> In a certain Chinese encyclopedia, it is written that animals are divided into: (a) belonging to the emperor, (b) embalmed, (c) tame, (d) sucking pigs, (e) sirens, (f) fabulous, (g) stray dogs, (h) included in the present classification, (i) frenzied, (j) innumerable, (k) drawn with a very fine camel hair brush, (l) etcetera, (m) having just broken the water pitcher, (n) that from a long way off look like flies. (Foucault, 1973, p. xv)

This classification would seem to be totally illogical, yet, in the time in which it was held to be true, it was considered to be self-evident. Truth, from the constructivist point of view is problematic since it will vary with the participants and circumstances. "Truth is defined in the constructivist paradigm simply as that most informed and sophisticated construction on which there is consensus among individuals most competent to form such a construction" (Guba & Lincoln, 1989, p. 88).

## Epistemology

Epistemology refers to the relationship between the enquirer and the enquired into. Guba and Lincoln (1989, p. 83) defined this as the answer to the question "How can we be sure that we know what we know?" In the scientific paradigm, having asserted that an independent reality exists, it is logical that the enquirer must maintain an objective stance while studying it (Guba, 1990; Guba & Lincoln, 1989; Greenfield, 1986). This view of researcher and researched being objectively separated defines the dualist/objectivist epistemology of positivistic science.

In opposition to the dualist/objectivist stance of the positivistic paradigm, constructivists, because of their ontological beliefs, insist that there must be interaction between the observer and the observed. It is only because of this interaction that data which can be examined can be obtained (Guba & Lincoln, 1989). Greenfield (1986, p. 68) said: "all *experts* in organization theory who claim their prescriptions stand on objective science are open to challenge, for their values, not their science, constitute the real foundation of their knowledge." Dewey (1934, as cited in Bernstein, 1960), also put forward this point of view when he encouraged observers to be active rather than passive:

> Perception is an act of the going-out of energy in order to receive, not a withholding of energy. To steep ourselves in a subject matter we have first to plunge into it. When we are only passive to a scene, it overwhelms us and, for lack of answering activity, we do not perceive that which bears us down. (p. 171)

Feyerabend also made the point that knowledge is socially constructed and is relevant to the society in which it is created. Thus, not only are there no universal laws, but the truths of one culture are not only not true but incomprehensible in another culture (1991, p. 17).

Constructivists favour an active engagement between the researcher and the researched as the only way in which meaning can be obtained. "The values of the inquirer inevitably enter the inquiry in connection with the whole series of decisions involved in designing, mounting and monitoring an investigation. The values of involved individuals . . . from whom information is solicited, also exert influence" (Guba & Lincoln, 1989, p. 88).

## Methodology

The methodological question is defined by Guba and Lincoln (1989, p. 83) as: "How can we go about finding out things?" Since positivistic science is built upon the principals of an external reality and a dualistic and objective way of relating to the knowledge, then it follows that the best way of conducting research would be empirical experimentation. In designing research projects the researcher attempts to isolate a particular phenomenon by removing contaminating variables such as researcher bias and by introducing a specific variable which will affect outcomes in observable ways.

Constructivists do not believe in constructing elaborate experiments which try to isolate variables or control results. Nor do they believe that the researcher can be, nor is it desirable for them to be, completely objective. They do believe that the constructions of participants must be examined and critiqued and opportunities created for entirely new constructions to arise (Guba & Lincoln, 1989). A dialectic hermeneutic process must be initiated which:

> First iterates the variety of constructions, . . . then analyses those constructions to make their elements plain and communicable to

> others, reiterates the constructions in light of new information . . . and so on to consensus -- or as close to consensus as one can manage. (p. 89)

Dewey in the 1930s suggested something similar when he discussed the necessity of reflectivity as a mode of thought. The three points he made as prerequisite to being reflective: (a) open-mindedness, (b) whole-heartedness, and (c) responsibility (Dewey, 1933, pp. 30-33), are the habits and predilections needed by the constructivist researcher. To be open to new ideas and new constructions and to be committed to the method of determining and describing others' constructions and to take responsibility for the influence of the researcher's values and for the protection of respondents, is the essence of the practice of the constructivist researcher.

## Data Gathering

This study was constructivist in nature (Palys, 1992; Guba, 1990) in the sense that the purpose was to obtain the insights of participants as to the present and future connections and associations between First Nation schools and provincial departments of education rather than provide prescriptive or theoretical solutions to the issues. In order to gather these insights, data were collected in two ways. A review of relevant documents was conducted to establish the legislative or policy basis for a relationship between First Nation schools and the provincial departments of education. Then, a number of interviews were conducted of persons, at the provincial or province wide level and at the First Nation level, who were engaged in an administrative relationship.

## Document Review

The School Acts or similar legislation and the regulations which accompany them were scrutinized for any references to Indian education. These documents were available publicly from the Queen's Printer in each province or from the provincial government's document printing service. In some cases I purchased these documents in person and in others I sent for them through the mails.

Provincial policies which are related to Indian education but are not legislatively based were also examined. Some of these documents are publicly available but some were internal policy statements which were made available to me by the participants of the study. Some policy documents developed by First Nations organizations were also made available to me by participants in the study. In some cases the policy documents were provided in advance of the interview date but more often at the time of the interview.

The survey of documents was designed to establish the legal or legislative or policy basis for any relationships which were presently in effect and also identified some issues regarding the relationships between First Nation schools and the provincial departments of education.

## Interviewees

Over a period of two years a number of interviews were conducted with officials of the department of education in each of the three provinces and with officials from the province wide Indian associations to determine their assessment of the situation. These participants were selected by reviewing the structures of the organizations and contacting the individual who had responsibility for Indian or Native education. Most provincial departments of education have a Native Education branch, or some similar structure, and all province wide Indian organizations have a position charged with the responsibility for education. Interviews were conducted with five educational administrators from the provincial departments of education. Six interviews were also conducted with representatives of the province wide Indian organization or Tribal Council Directors of Education.

The purpose of these interviews was to obtain a province wide perspective of the regulatory and articulation problems. It was expected that these interviewees would provide insight into the nature of the relationships at a province wide level but would not necessarily be able to supply insight into how the interactions are operationalized at the First Nation level.

Eight First Nation educational administrators were also interviewed to gain their insight into the relationship between themselves and the provincial departments of education and between themselves and the Tribal Councils or the province wide Indian organization. These individuals were in a position to describe how any policy initiatives were operationalized and were also in a position to describe what, if any, changes they anticipated in these relationships. First Nation administrators were selected from personal knowledge and from suggestions provided by other interviewees.

## Interview Process

Interviews conducted in person are usually more effective than interviews conducted by telephone. Therefore, I traveled to various reserves or other centres within Alberta, Saskatchewan and Manitoba in order to meet participants in their surroundings and, hopefully, to make them more comfortable. Prior to traveling, the potential participants were contacted by telephone and informed of the study. If they agreed to participate then a formal letter was sent to them outlining the purpose of the study. The letter also indicated that they would have the right to refuse to have their comments used or to participate in the study.

Each interview lasted approximately one hour although there was no predetermined length. The participant's permission to tape the interview was sought and most participants agreed to allow taping. A printed verbatim transcript was provided to these persons and they were again advised in writing that they had the right to withhold or change any of their comments. For those who refused to allow taping, I made notes as the interview progressed and then reconstructed the text of the interview. This was provided to them in printed form and they were also advised that they had the right to withhold or change any of their comments.

## Interview Content

All of the interviews were unstructured in the sense that there was not a lock step question and answer process devised ahead of time. Participants were encouraged to talk about their experiences of a working relationship and the interview proceeded as a discussion. However, based on my assumptions of what aspects of the relationship might be discussed, I constructed a list of topics which I wanted to ensure were covered. This list of topics was not provided to participants but I used it as a mental guide to the discussion. In addition, the content of the interview was guided by participants' knowledge and by issues which they brought up which I had not thought of beforehand. Some of these issues were added to my interview guide as the study progressed. The practice of constructing an interview guide while remaining flexible and responsive to new information is the methodology preferred for qualitative interviewing by Glesne and Peshkin (1992, pp. 63-64).

## Data Analysis

Two types of data were collected. The document review provided an understanding of the legislative and policy base for any relationships between the First Nation schools and the departments of education. More than fifty documents from either provincial governments or First Nations organizations were obtained. The analysis of these documents was fairly straight forward. They were scanned for any reference to Indians and these were noted in Chapter V. I also looked critically at the available documents and made some comments, in Chapter V, about some of the issues raised and some of the issues that were not dealt with in the legislation or policy. First Nation legislation and policy were also described and discussed.

The second, and most substantial, source of information was the transcripts of the interviews which were conducted. In the case of those participants who did not allow taping, I took notes during the interview and then, immediately after, reconstructed the interview in written form. For those taped interviews I prepared a transcript personally. Listening to the tape and writing the transcript was necessary for me to gain a flavour of what was said and to begin, in my mind, a preliminary analysis of what was said.

When interviewing was complete there were more than 230 single spaced pages of transcripts and additional hand written notes and observations. Analysis of these data was more difficult than the analysis of documents.

## Data Analysis Methods

There are a variety of methods which could have been used to analyze data. Content analysis as described by Holsti (1969) is one method which could have been used in this study. However, as Holsti described it, content analysis is a group of explicitly formulated rules and procedures which is aimed at creating generalizable knowledge and having theoretical relevance. Since this was not the purpose of this study, strict adherence to content analysis was not the method chosen.

Glaser and Strauss (1967) suggest a constant comparative method for data analysis. However, their objective was to develop grounded theory from research data. They argued that a major purpose of research in sociology was to "enable prediction and explanation of behavior (p.3).

Once again this was not the purpose of this study and the method was rejected.

Bogdan and Biklen (1992), advocate that data analysis start immediately after data collection and that the researcher should make notes and observations as soon as possible after observation or interview (p. 154). They also advocate the use of a coding system to analyze data:

> As you read through your data, certain words, phrases, patterns of behavior, subjects' ways of thinking, and events repeat and stand out. Developing a coding system, you search through your data for regularities and patterns as well as for topics your data cover, and then you write down words or phrases to represent these topics and patterns. (p. 166)

Although they state that coding should be kept simple they advocate the use of a "small" number of codes -- thirty to fifty. They also suggest that after preliminary coding is completed that data with similar codes be sorted out from the rest. This can be done by the method they refer to as "the cut-up-and-put-in-folders approach" (p. 177).

Inductive data analysis is a process described and recommended by Lincoln and Guba (1985, pp. 202-204). The process is a relatively simple one consisting of looking for meaning or "making sense" from the raw data and from notes or other observations of the researcher. There are two basic steps in the process of inductive data analysis referred to as "unitizing" and "categorizing" by Lincoln and Guba (1985):

> Unitizing involves defining information bearing units, separating them along their boundaries, and identifying them for subsequent analysis. . . . Categorizing is a process whereby previously unitized data are organized into categories that provide descriptive or

> inferential information about the context or setting from which the units were derived. (p. 203)

Glesne and Peshkin also advocate the use of some type of coding system to assist in unitizing and categorizing. Original categories are sometimes subsumed by other categories as the data are re-read and re-evaluated:

> Coding is a progressive process of sorting and defining and defining and sorting those scraps of collected data that are applicable to our research purpose. (1992, p. 133)

## Procedures Used

Data analysis began after each interview was complete. If notes were taken then these had to be translated into text format. If tapes were made then these had to be transcribed as soon as possible. By doing the transcription myself I was able to hear again what the interviewee had said and begin to formulate some opinions about the comments made. This interim data analysis was helpful in raising new concerns to discuss with participants as well as to create the beginnings of topics and categories.

Once all data had been collected, I re-read all of the transcripts and began to look for commonalties. While each participant discussed issues which were obviously of concern to them or to their organization and, as a result, there was considerable variation in the issues raised, it was still possible to identify certain commonalties.

I first selected quotes from the interviews which involved service delivery topics. These became the units of information referred to by Lincoln and Guba. Topics such as teacher and program accreditation, curriculum issues, tuition, student certification, policy, etc., were discussed by a number of participants.

The next step in data analysis was to determine if any of the topics could be combined under more comprehensive categories. Categories such as administrative services and jurisdictional issues were concerns that underlay many of the topics.

Finally, the categories were analyzed in light of the present political and policy developments as well as my own knowledge of the situation to arrive at some over-riding themes.

Most of this sorting and re-sorting was done by hand rather than with the aid of search or key-word commands on the commuter. However, all interviews were contained on computer and, unlike Bogdan and Biklen's cut up and put in folder method, the folder existed only in the computer. These folders full of data bits or units were then printed and formed the basis for describing the results.

## Goodness Criteria

Owens (1982) raised a concern about qualitative research when he stated: "there is serious concern that we are in the process of abandoning the rigorous standards of scientific inquiry and reintroducing 'sloppy research' as the standard in our discipline" (p. 1). Also, Rist in his 1980 article warns about the dangers of "blitzkrieg ethnography", and a number of other authors have expressed concern over the validity of qualitative research (Dawson, 1982; Howe & Eisenhart, 1990; Kirk & Miller, 1986;

Miles, 1979; Owens, 1982; Philips, 1987). These authors and others are concerned about validity and reliability as defined in the traditional positivistic sense. They may be unwilling to recognize that quantitative measures of validity and reliability may not be applicable to constructivist research.

In traditional scientific inquiry, the goodness or rigor of an investigation is measured in terms of external validity, internal validity, objectivity, and reliability (LeCompte & Goetz, 1982; Lincoln & Guba, 1982; Owens, 1981). By external validity is meant those "selection effects, setting effects, history effects and construct effects" which allow the results of an investigation to be generalized to the larger population (Guba & Lincoln, 1989, p. 234). Internal validity refers to the extent to which inferences can be drawn about the causal relationships between two variables. Statistical tests are used to determine the level of confidence that such a causal relationship exists (Guba & Lincoln, 1989 p. 234). Finally, reliability refers to the extent to which a study can be replicated (LeCompte & Goetz, 1982, p. 35).

Since this study, based on constructivist methodology, is not concerned with generalizing results, causality or replication, the scientific criteria of goodness do not apply. Lincoln and Guba (1982, & 1985), Guba and Lincoln (1989), LeCompte and Goetz (1982), and Whitt (1991) have described the unsuitability of scientific paradigm measures of goodness for constructivist research. Lincoln and Guba (1982, & 1985) and Guba and Lincoln (1989) proposed the replacement of the traditional goodness criteria with measures which are more applicable for constructivist research.

## Goodness Criteria for Constructivist Research

Lincoln and Guba (1989), proposed that the criterion of internal validity be replaced by credibility, external validity with transferability, reliability with dependability, and objectivity with confirmability. They suggested a variety of methods for establishing each of the new criteria.

Credibility. The match between the constructed realities of the corespondents and the representation of those realities by the researcher (Guba & Lincoin, 1989, p. 237) is called credibility. The likelihood that an isomorphic relationship can be verified will be increased by use of such techniques as; (a) prolonged engagement to establish rapport and trust, (b) persistent observation to add depth and scope to the investigation, (c) peer debriefing to discuss with a knowledgeable outsider your findings and development of the study, (d) negative case analysis to revise and amend original research questions in the light of collected data, (e) progressive subjectivity to provide a check on the inquirer's developing construction and, (f) member checks to ensure that the researcher's developing constructions are in fact representations of the respondents' views.

Transferability. This term in the constructivist paradigm does not correspond exactly with external validity in the positivist sense. The two differ in that the burden of proof for the claim for generalizability in the positivist sense is on the inquirer while, in constructivist research, the burden of proof for claimed transferability is on the receiver. That is, each reader or receiver will examine the research findings and may be able to apply those findings to their own situation (Guba & Lincoln, 1989, p. 241).

Dependability. According to Guba and Lincoln (1989, p. 243), "Dependability is parallel to the conventional criterion of reliability." The process of conducting constructivist research forces reassessment and restructuring of original ideas as the study progresses. Therefore, it would be virtually impossible for any other researcher to duplicate the findings of another constructivist researcher. Dependability in the constructivist sense, then, must deal with something other than replicability. In constructivist terms, dependability means the ability to show that the changes to the research questions and the constructions that have been made are based on some data gathered from respondents not simply as a result of the whims of the researcher. Guba and Lincoln (1989) and Lincoln and Guba (1982) suggested the keeping of a research diary and the creation of an audit trail in which are recorded the decisions made by the researcher and the reasons for those decisions. Schwandt and Halpern (1988) also made a strong case for the creation of an audit trail as a means of showing the development of the research.

Confirmability. Related to dependability is confirmability which may be thought of as parallel to objectivity. "Like objectivity, confirmability is concerned with assuring that data, interpretations, and outcomes of inquiry are rooted in contexts and persons apart from the researcher and are not simply figments of the researcher's imagination"

(Guba and Lincoln, 1989, p. 243). Constructing an audit trail and making it available for inspection is the method recommended by Guba and Lincoln.

Participant Checks. A final method suggested by Guba and Lincoln for establishing the goodness of constructivist research deals with the process of conducting the research itself. Data gathered by the researcher should be analyzed soon after collection and then respondents should be asked to confirm or expand upon the constructs which the researcher has made from the data. This clarification and distillation process continues until respondents are satisfied that their actual views are being represented (Guba & Lincoln, 1989, p. 244).

## Meeting Goodness Criteria

While conducting this study, I was aware of the goodness requirements and took steps to ensure that the study would be acceptable. I believe that the study is credible because of my knowledge and experience in the area but also because I was conscious that this experience might blind me to new ideas coming from the participants. The fact that the original interview guide and the focus of the research questions has shifted from the beginning is evidence that the viewpoints of the participants have been taken into account in the re-construction of informed opinion.

This study was not designed to provide widely generalizable results. However, it is hoped that the findings of this study will be valuable to others in similar situations. Earlier in this chapter I outlined the significance of the study to a variety of publics.

An audit trail is in existence which shows how the study has changed over time. This increases the dependability and confirmability of the study since reasons for change are documented.

Finally, participant checks were made. Interview transcripts were sent back to participants and they were given the opportunity to withhold or amend any of their comments if they wished to do so. There were very few who indicated change was necessary but I made these changes and again sent the interview transcript for their approval. Several times when analyzing and categorizing data the meaning of the interviewees' words were unclear and I contacted them by telephone to confirm what they meant. These confirmations or clarifications were kept in hand written notes.

## Ethical Considerations

Since the study involves the participation of humans, all University of Alberta guidelines regarding the ethical involvement of humans have been followed. A submission was made to the Research Ethics Review Committee describing the purpose of the study and proposed method of gathering data. The proposal was subsequently approved by the Committee.

Participants were informed that they had the option to participate and would be able to withdraw from the research at any time. They received copies of the transcripts of their interviews before the information was incorporated into the dissertation and could decide to withhold certain of their interview comments. They were also informed that all responses would remain confidential and that, although quotes from the interviews would be used, the sources would not be identified. Through the above procedures the requirements of consent, confidentiality, and anonymity were met.

# CHAPTER III

# A BRIEF HISTORY OF SELF-GOVERNMENT

Indian control of Indian education and the development of Indian self-government are intimately related. Recently a great deal of attention has focused on the development of self-government for Native peoples and Downing (1993) provides a useful definition:

> To indigenous peoples sovereignty means the legitimate exercise of power and authority by the people themselves, sometimes in partnership with other national entities, sometimes not; in order to direct their own authentic course of political action, separate and apart from any kind of dependency status. (p. 91)

Control of membership, lands, health, child welfare, finance, and education are indicators of an independent self-governing Nation (Barman, 1987, p. 29). As stated by the National Indian Brotherhood (NIB) in the Orange Paper, for Indian people, the management and control over their children's education is a primary example of the exercise of self-government (NIB, 1972, pp. 3-4). Smith (1993) recognized that the achievement of self-government may not occur as a whole and he suggested that education has played a major role in the development of self-government:

> The piece-meal acquisition of self-government began when various Indian groups started to wrest control of their schools from federal, provincial and church bureaucrats. (p. 19)

In this chapter, the foundations of the argument for self-government and, therefore, control of education, are examined. Two of the most important foundation documents are the Royal Proclamation of 1763 and the treaties which were signed between the Crown and the Indian Nations. The Royal Proclamation has an effect on the modern interpretation of the right to self-government and Indian management of Indian affairs (Cumming & Mickenburg, 1972), and the treaties define the responsibilities of the federal government, as representatives of the Crown, in its relationships with First Nations.

A number of other documents, interpretations, court decisions and constitutional amendments will be considered in this chapter and their influence on the development of self-government and the control of Indian education will be discussed.

## The Royal Proclamation of 1763

The Royal Proclamation of 1763 is frequently cited as the guarantee of Indian self-government (Stagg, 1981). This proclamation was issued by King George III shortly after the signing of the Treaty of Paris which ceded the French possessions in North America to the British Crown. The Proclamation established three new colonial governments in the new territories and prescribed the powers of these new governments. It also recognized the importance of the Indian Nations in the recent war and the necessity of keeping peace with them if the colonial settlements were to survive (Plain, 1985, p. 31).

The Proclamation is often called the Indian charter of rights (Charles, 1981, p. 5) since it clearly outlined the procedure for dealing with the development of lands held by Indians and is one of the strongest recognitions of aboriginal land rights (Brizinski, 1989, p.148). Even today, it forms the basis of negotiations between the indigenous peoples and the Crown or government of Canada (Penner, 1983, p. 43) and is referred to in the Constitution Act of 1982 in section 25 (Minister of Supply and Services, 1989, p. 64).

The primary purpose of the Proclamation was to organize the new territories and establish colonial governments, but there are references to Indians. Indians are referred to in the sections of the Proclamation dealing with peace and security, and lands.

### Peace and Security

In the introduction to the section of the proclamation dealing with Indians, the King said:

> And whereas it is just and reasonable, and essential to Our Interest and the Security of Our Colonies, that the several Nations or Tribes of Indians, with whom We are connected, and who live under Our Protection, should not be molested or disturbed in the Possession of such parts of Our Dominions and Territories as, not having been ceded to, or purchased by Us, are reserved to them.
> (Stagg, 1981, p. 397)

It is interesting to note that the King lists two main purposes for the issuing of the proclamation regarding Indians. First, he says it is "just and reasonable" and secondly that it is in the interest of the "security of the colonies." It must be remembered that this proclamation was issued shortly after the Seven Year's War and George III was likely more anxious to secure peace in his new colonies than he was with the welfare of the indigenous peoples. Nevertheless, in order to achieve peace he had to deal with the Indians in an equitable manner (Stagg, 1981, p. 336). The language used by the King when he referred to the several "Nations" of Indians is worth comment. This concept of nationhood is one which was followed in the subsequent negotiations of treaties between the Crown and the Indian Nations. Unfortunately, the King also speaks of the Indians who live under "Our protection". This statement of wardship is seemingly in contradiction with the previous statements of the "Nations or Tribes" of Indians. This dilemma persists today and is at the root of many of the difficulties associated with self-government.

### Lands

In the proclamation, mention is made of territories or lands which are to be reserved for the use of Indians. According to the proclamation, anything which was not included in the existing colonies or the new colonies which were established by the proclamation as well as any lands drained by rivers in the West and Northwest were to be reserved for the use of Indians. This area comprised a vast territory of land covering at least one third of the interior of North America from the Southern boundary of Rupert's Land, south to the Florida colonies, west from the Western boundary of Quebec to the Pacific (Stagg, 1981, p. 363). The proclamation not only reserved these unsettled areas for the use of Indians, but also included traditional Indian lands within the established colonies (Stagg, p. 376). The recognition of Indian ownership of this vast tract of land continues to be a point of contention for Indian peoples attempting to establish recognition of their aboriginal rights and settlement of outstanding land claims.

## Treaties

The Indian peoples of Canada face many difficulties today. The incidence of alcoholism, youth suicide, and a host of other social problems are several times higher on reserves than in the rest of the population. The percentage of Native people involved in crime or occupying places in correctional institutions is also greatly out of proportion to the percentage of the total population which is Indian. These results were not the ones which the Elders of the Indian Nations that signed Treaties in the late 1800s foresaw. In their opinion they were signing agreements Nation to Nation which were to be honoured forever and which would secure the Indian way of life for as long as the Indian people wanted it (Price, 1980).

### The Government's Purpose in Treaty Making

After confederation, the Canadian Government started to look west for expansion of the new country. In 1869 the Canadian government purchased Rupert's Land, which had been previously granted to the Hudson's Bay Company, despite the fact that no arrangement had been made with the Indians occupying the land. The government was primarily concerned with western expansion of settlement in that stretch of land from the Great Lakes to the Rocky mountains and bounded by the United States border in the South and the Saskatchewan river in the North. If this area was to be opened for settlement the government realized that it would have to come to some arrangement with the Indians presently occupying the land (Taylor, 1975, pp. 3-4). However, because of the "Indian title" conferred by the Royal proclamation of 1763, the government was obliged to purchase the land rather than simply taking it over (Frideres, 1983, p. 66). Therefore, it continued the policy of signing treaties between the Crown and the Indian peoples for surrender of the use of the land (Opekokew, 1980, p. 9). This policy had been successful in Upper and Lower Canada and the policy was simply extended to the West. According to Mercredi, "The goal of the treaties was to allow for settlement and to gain the friendship and alliance of First Nations" (1993, p. 62). The government hoped, by this means, to avoid the military confrontations which accompanied settlement expansion in the western United States (Taylor, 1975). As Frideres (1983) stated: "The federal government decided to negotiate with the Natives largely because its own agents foresaw violence against white settlers if treaties were not established" (p.118). Between 1871 and 1877 treaties numbered one to seven were concluded with the various Indian Nations occupying the Northwest.

## The Indian Purpose in Treaty Making

If the government's purpose in making treaties was clear, the Indians also desired some kind of arrangement for their own protection. The Indian leaders recognized that with the disappearance of the buffalo (LaRocque, 1978, p. 21) and the increased number of settlers, they would need to make an arrangement which would secure their culture and way of life. Therefore, although in most cases the government treaty negotiators were instructed to offer only reserves and a small annual cash annuity, these offers were not immediately accepted by the Indians (Taylor, 1975). The Indians were concerned for their survival in a new world and wanted to include guarantees against starvation, access to medical services, and schooling for their children. In particular the inclusion of a promise of schooling in the treaties was seen by the Indian leaders as essential to the future survival of their people. The Indians who negotiated Treaty 1 at Fort Garry managed to have these items included in their treaty. As the treaty making process moved West the news of what had been included in previous treaties preceded the treaty commissioner's party. Thus, when subsequent treaties were made the government was forced to include many of the same terms as had been negotiated previously (Morris, 1991).

## The Education Clauses

As a result of the Indians' demands, education clauses appear in the numbered treaties. While similar in content, the clauses in treaties one to six speak of maintaining a school, whereas treaty seven speaks of paying the salary of teachers (Morris, 1971, pp. 313-375). The treaty six clause stated:

> And further, Her Majesty agrees to maintain schools for instruction in such reserves hereby made, whenever the Indians of the reserve shall desire it. (Morris, 1971, p. 353)

This difference in the statements of support for education could mean that the federal government is not liable to provide teachers or schools, as the case may be. However, in the Constitution Act of 1867, Section 91 (24) it is clearly stated that the federal government is responsible for all matters dealing with Indians and Indian lands (Minister of Supply & Services, 1989) and, therefore, for all aspects of schooling.

The Indian people consider that the education clauses give them the right to education at all levels including elementary, secondary, and post-secondary while successive federal governments have attempted to define the education clauses to mean the provision of elementary schooling only.

The Indian Elders tell us that the education clauses were well understood by both groups and were included in treaties at the Indians' insistence. "There will be a school on your reserve; your children will go there to be educated until they reach a high degree of education" (Lightning, 1975b, p. 125). Further, "your children will have an education. . . . We have had education for a long time" (Smith, 1975, pp. 141-142). This indicates the importance that Indians, historically and presently, place on education.

## The Indian Understanding of the Treaties

It is important to describe the Indians' understanding of the treaties which they signed. It first must be recognized that the two parties to the treaty making process were proceeding from entirely different motives (see above). Not only were their world views different but what they hoped to gain from the treaties was also different. For the Indian people it was a matter of survival. They were seeking guarantees that their traditional way of life would not be lost and that they would receive the benefits of European technology (Dickason, 1992, pp. 332-333). For the Europeans it was a matter of ensuring peace and obtaining land for settlement. The reserve system was originally a way for both of these desires to be met (Tobias, 1987, p. 148). Although both parties wanted treaties their concepts of what was included in the treaties were completely different.

## Differential Understanding of Treaties

The subsequent relationship between the Canadian government and the Indian peoples is based on this differential understanding of the meaning of treaties. The Indians "had in mind a partnership with whites as they worked out their own adaptations to preserve Indian life, values and Indian government authority" (Dickason, 1992, p. 333). The recent debate over the inherent right to self-government is predicated on what was or was not given away in the treaty making process. In addition, the debate over aboriginal rights in Canada is based on this differential understanding. As stated in Mercredi (1993), "Our understandings of our treaties have never become part of Canadian law, or even been accepted or respected by Canadian governments" (p. 74).

That some differences in understanding should occur is not surprising (Penner, 1983, p. 12, Mercredi, 1993, p. 63). The treaty commissioners came to the negotiations with a certain mind set or world view and the Indians came with a different world view. In addition to this difficulty, the commissioners and the Indians had to rely on the services of interpreters whose explanations sometimes differed from the intentions of either party. The differential understanding was also influenced by the fact that sometimes what was negotiated was not accurately reflected in the written text of the treaty which was produced later:

> The First Nations were given assurances during negotiations only to later find out that the written text did not reflect these promises. First Nations peoples had no concept of individual ownership of land, so the idea that land could be ceded by a treaty was a shocking and alien concept. (Mercredi, 1993, pp. 62-63)

## Inclusions and Exclusions in Treaty Provisions

David Laird, who was the Lieutenant Governor of the Northwest Territories after 1876, made this statement to the Indians gathered at Blackfoot Crossing on the Bow River:

> She [Queen Victoria] wishes you to allow her white children to come and live on *your* land and raise cattle, and should you agree to this she will assist you to raise cattle and grain and thus give you the means of making a living when the buffalo are no more. (Taylor, 1980, p. 31)

This statement is important because it explicitly states that the ownership of the land is to remain with the Indians and only the use of it is required. Also, there is no mention of giving up control or ownership of the flora, fauna or mineral resources of the country.

The following quotes from Elders whose grandfathers signed the treaties provide evidence of the Indian understanding of what they gave up and what they retained at the time of treaty signing:

> It was said that not one piece of timber, not one stone was given up to the government. The only thing which was included in the bargaining was those portions of land where something could be sown by the white man. (Rain, 1974, p. 115)

> The commissioners were not to take the game animals, the timber, nor the big lakes -- that was for the Indians' means of survival. Also anything underground would not be given up, only six inches, enough for the settlers to grow crops. 'If anything is discovered below the surface of the land it will be towards your benefit' the commissioner said. (Lightning, 1975a, p. 119)

Other Elders consistently make mention of the fact that only the use of the land was surrendered in treaty. The recollection of these Elders are important since they represent a connection to the past through the oral tradition. No mention is made by the Elders of any recollection of giving up their Nation status, sovereignty, or control over their lands. In fact it is specifically mentioned that the Indians were to make their living from the land, as before (Price, 1980, pp. 113-160). Cassidy (1991, p. 49) said: "we must remember that native peoples ran their own affairs and were, in fact, self governing. The Indian Act frustrated their right to make their own laws by regulating their entire existence."

## Recognition of Treaty Rights

The promises made in the Treaties have never been fulfilled by the Crown or the Canadian government acting on behalf of the Crown. "Our understandings of our treaties have never become part of Canadian law, or been accepted or even respected by Canadian governments. Even the literal meaning of the written text has not been respected" (Mercredi, 1993, p. 74).

There have been a number of court cases which have tried to define the nature of treaties. The arguments have centred around what kind of agreements they are in terms of being contracts, international treaties, documents which ceded land, etc. The courts have ruled that treaties are *sui generis,* that is, something unique from either international treaties or mere contracts.

## Court Interpretations

The question of aboriginal rights and title to the land has been debated at length and there have been a series of court challenges in an attempt to define aboriginal rights. As stated earlier there is disagreement over what was actually retained and/or given away during the treaty making process. In areas where no treaties have been signed, the debate is over whether or not aboriginal title has been extinguished by means other than treaty. Reference has also been made to the Royal Proclamation and its effect on present day interpretations of the treaties. Indian organizations and Native peoples argue that they never gave up their right to self-government and that their governments existed and were effective long before European contact (Calder v. B. C. Attorney General , 1973).

### Land Ownership

The Calder case determined that aboriginal title continued to exist until such time as it was specifically extinguished (Calder v. B. C. Attorney

General, 1973, pp. 316, 346). The Nishga Indians were said to be in possession of the land since time immemorial and their claim to exercise the rights of ownership were affirmed by their own "common law" (Calder v. B. C. Attorney General, 1973, p. 371) and by the fact that they held ownership due to possession (Calder v. B. C. Attorney General, 1973, pp. 375, 393). The judgment also stated that aboriginal title is further proven by the fact that treaties have been negotiated between the Crown and the aboriginal peoples elsewhere. If the Crown did not believe that the aboriginal peoples had ownership, then there would have been no point in negotiating a treaty with them for the surrender of that ownership (Asch, 1988, p. 46,51, Calder v. B. C. Attorney General, 1973, pp. 387, 394; Opekokew, 1980, p. 9).

### Treaties as *Sui Generis*

The question of how the terms of the treaties should be interpreted was dealt with in the case of Simon v. R. (1985). In this case the Supreme Court ruled that aboriginal rights come from being the original owners of the land and not from the promises contained in treaties (Simon v. R., 1985, pp. 398-401, Sparrow v. R. , 1987, p. 594). The decision also established the concept of *sui generis* interpretation of the treaties and this is indicated in several locations in the judgment (pp. 388, 402, 404, 410). The courts said: "An Indian treaty is unique; it is an agreement *sui generis* which is neither created nor terminated according to the rules of international law" (Simon v. R., 1985, p. 404).

The courts have also ruled that interpretation of the terms of treaty should not be limited to the literal meaning of the words but should take into account a more liberal interpretation. This ruling is best illustrated by the following quote: "Indian treaties should be given a fair, large and liberal construction in favour of the Indians" (Simon v. R., 1985, p. 402). This interpretation of treaties is also stated in Nowegijick v. R (1983) "It seems to me, however, that treaties and statutes relating to Indians should be liberally construed and doubtful expressions resolved in favour of the Indians" (p. 36).

Section thirty-five of the Constitution Act of 1982 also provides for the recognition and affirmation of aboriginal and treaty rights including those rights which were in existence at the time of treaty signing as well as those rights which might be acquired as a result of land claims procedures. This section of the Constitution Act was used in Sparrow v. R (1987), to conclude that treaty and aboriginal rights have precedence over provincial legislation if that legislation infringes on those rights (Sparrow v. R., 1987, pp. 583, 599, 603). This section of the Constitution, as well as section 87 of the Indian Act, dealing with taxation (Hawley, 1986, p. 56), were also referred to in Nowegijick v. R. (1983) to support a liberal interpretation of the items of treaty in favour of the Indians.

## The Constitution Acts

The Canadian constitution contains limited reference to Canada's aboriginal peoples. However, the Constitution Act of 1982 and subsequent amendments, have attempted to include aboriginal peoples in the constitution.

In the original constitution of Canada, the British North America Act, now called the Constitution Act of 1867, there is very little mention of the Indian people of the new country. Section 91 of the Act which details the powers of the federal government has several sub-sections. Sub-section 24 simply says "Indians, and lands reserved for Indians" (Minister of Supply and Services, 1989, p. 28, Bezeau, 1984, p. 38). This excluded the provincial legislatures from making laws regarding Indians and gave the federal government exclusive responsibility in that regard (Cassidy, 1991, p. 39). Barman, commenting on this arrangement said: "The Indian Nations saw this grant of powers to Canada as nothing more than that Canada would take the Crown's place in dealing with Indian Nations; it was not a grant of powers *over* those Nations" (1987, p. 27).

Constitution Act of 1982

The constitutional patriation and restructuring which occurred in 1982 made more specific mention of Indian peoples. Section 25 of the Charter of Rights and Freedoms states:

> 25. The guarantee in this Charter of certain rights and freedoms shall not be construed so as to abrogate or derogate from any aboriginal, treaty or other rights or freedoms that pertain to the aboriginal peoples of Canada including
>
> (a) any rights or freedoms that have been recognized by the Royal Proclamation of October 7, 1763; and
>
> (b) any rights or freedoms that now exist by way of land claims agreements or may be so acquired.
>
> (Minister of Supply and Services, 1989, pp. 64-65)

Further, Section 35 of the Constitution Act of 1982 specifically states:

> 35. (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.
> (2) In this Act, "aboriginal peoples of Canada" includes the Indian, Inuit and Metis peoples of Canada.
> (3) For greater certainty, in subsection (1) "treaty rights" includes rights that now exist by way of land claims agreements or may be so acquired.
> (4) Notwithstanding any other provision of this Act, the aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons
> (Minister of Supply and Services, 1989, p. 66)

Section 35.1, which was added by the Constitution Amendment Proclamation of 1983, states:

> 35.1 The government of Canada and the provincial governments are committed to the principle that, before any amendment is made to Class 24 of section 91 of the "Constitution Act, 1867", to section 25 of this Act or to this Part,
> (a) a constitutional conference that includes in its agenda an item relating to the proposed amendment, composed of the Prime Minister of Canada and the first ministers of the provinces, will be convened by the Prime Minister; and
> (b) the Prime Minister of Canada will invite representatives of the aboriginal peoples of Canada to participate in the discussion on that item.
> (Minister of Supply and Services, 1989, pp. 66-67)

These statements were viewed by the Indian peoples as legitimate efforts to include aboriginal rights and their desire for recognition of self-government, in the constitution (Asch, 1984).

The conference referred to in section 35.1 was in fact held and the Prime Minister of the day, Pierre Trudeau, in his opening remarks stated: "And so we are not here to consider whether there should be institutions of self-government but how these institutions should be brought into being" (Trudeau, 1984, p. 76). Although the conference was held there was no resolution or definition of aboriginal rights or the development of self-government. The debate regarding the meaning of self-government continues today (LaForme, 1991).

### The Charlottetown Agreement

In 1992 an agreement to amend the constitution was negotiated. There were a number of proposals included in this agreement regarding Indian self-government. A recognition of the inherent right to self-government, recognition of the treaties, and future constitutional conferences were some areas which were agreed. There were also a number of areas such as aboriginal representation in the House of Commons, the Senate, and the Supreme Court; and financing of aboriginal governments which were to be negotiated at some later date (Minister of Supply and Services, 1992, pp. 16-22). It was also suggested that there would be a possibility of forming a First Nations Province within the Canadian confederation (Courchene, 1992). Although this Constitutional renovation package did not meet with the approval of Canadians generally and was not implemented, it is important because it was the first time that representatives of the First Nations had been directly involved in constitutional negotiations and the first time that the First Nations' inherent right to self-government was dealt with as a matter which had to be negotiated and defined with the First Nations people.

## The Penner Report

At about the same time as the constitutional patriation, a Special

Committee was established by the federal Government to examine the possibility of Indian self-government. This report was submitted to the government in 1983 and is more commonly known as the Penner Report, after its chairperson, Keith Penner. It has been an influential document in the sense that it focused public and government attention on the concept of self-government and the key issues which needed to be addressed (Cassidy, 1990, p. 79; Smith, 1993, p. 63). The report affirms the Nation status of Indian groups who signed treaties (p. 11) and makes a wide variety of recommendations for government action that would lead towards self-government (Penner, 1983, pp. 141- 148). A primary recommendation was: "The committee recommends that the right of Indian peoples to self-government be explicitly stated and entrenched in the Constitution of Canada" (p. 141).

The federal government rejected the report but, in 1984, the Minister of Indian Affairs, John Munro, introduced Bill C-52 in the House of Commons. The bill was entitled The Indian Self-government Bill (O'Toole, 1992, p. 9), and was originally well received by the Native groups even though it proposed self-government as a municipal format and as a grant of power from the federal government rather than recognizing the inherent right to self-government (AFN, 1984). The bill contained some of the recommendations of the Penner report and was intended as an interim action until such time as aboriginal self-government could be more fully described in the constitution. However the bill died on the order paper at the dissolution of parliament. In 1992 , a similar bill entitled An Act to Further the Aspirations of the Aboriginal People of Canada was introduced in the Senate as Bill S-18 on June 19, 1990 (O'Toole, 1992, p. 13) . This Bill received first reading and then died on the order paper at the dissolution of the 34th Parliament in September, 1993.

## Development of Self-Government

Since the failure of the Charlottetown agreement, a Royal Commission on Aboriginal Peoples has been struck. This commission is searching for ways to incorporate self-government into the constitution and to define what self-government means (Royal Commission, 1992a). The Royal Commission has recommended that any future attempt to entrench aboriginal self-government in the constitution must be based on five principles; (a) it is an inherent right, (b) it is circumscribed rather than uncircumscribed, (c) in certain areas aboriginal governments would be sovereign, (d) constitutional reform in this area could not proceed without aboriginal involvement, and (e) any future constitutional amendments must be consistent with Section 35 (O'Toole, 1992, p. 13).

### Indian Affairs Policy

Despite the fact that no agreement has been reached with the Indian people on what self-government should look like the Department of Indian Affairs, without consultation with Indian people and without their agreement, has developed guidelines for First Nations who wish to become "self governing" (Indian Affairs, 1989). The Department of Indian

Affairs has a history of unilateral decision making and its efforts to develop policy on self-government are further examples of this tendency for unilateral action.

1990 Self-government Policy

A policy directive has also been issued by Indian Affairs that describes the programs that they are willing to allow First Nations to administer and the guidelines that they expect will be followed for each program (Indian Affairs, 1990). Issac, (1994) made it clear that this is not what Indian Nations have in mind:

> Canada's Aboriginal peoples demand that their right of self-government be recognized by the orders of government in Canada and that this right be implemented according to the terms of each respective Aboriginal Nation. (p. 234)

For many First Nations, Indian Affairs' unilateral actions simply represent another attempt by Indian Affairs to regulate and govern the relationship between them so that Indian Affairs remains in control. It is also illustrative that in the case of Indian relations, management often occurs by administrative regulations rather than by any serious attempt to negotiate legislative change with the First Nations (Mercredi, 1993, p. 93). Boldt (1993) stated this opinion clearly:

> The Canadian Government is representing its Indian self-government initiative as if it were intended to serve Indian interests, rights, needs and aspirations. But, in fact, this version of 'Indian self-government' is a cunning strategy for serving the 'national interest'. (p. 93)

It does not represent, nor even give opportunity to the First Nations to design a system of government and management which will meet their particular needs (Krotz, 1992, p. 213). Mercredi (1993) said:

> The First Nations do not want the Department of Indian Affairs to have control of negotiations over self-government. . . . The track record of the Department says to us that we should stay away from them because they do not bargain fairly and they do not support our aspirations. (p. 118)

This attempt by Indian Affairs to retain control and decision making power over how First Nations are to accomplish self-government is typical of Indian Affairs policy, and the result of these efforts cannot help but be detrimental to the wishes and aspirations of Indian people (Boldt, 1993, pp. 132-161). The Penner report, which was discussed earlier, specifically recommended that the job of developing self-government should not be left with Indian Affairs because of the legacy of distrust and suspicion (Smith, 1993, p. 64).

Boldt (1993) was critical of the present direction of self-government. He stated that, "The Canadian government's Indian self-government proposal is a deliberate, clever and cynical exploitation of a concept that holds deep emotional significance for Indians" (p. 114). Boldt continued to say that until Indians take over the design and management of what their own governments should look like, there will not be true self-government. He also warned that if Bands participate in the type of self-government proposed by Indian Affairs they run the risk of losing the opportunity for the development of real self-government in the future (p. 114).

## 1995 Self-government Policy

Despite all of the negative criticism, Indian Affairs developed a new and more detailed self-government proposal (Indian Affairs, 1995). This policy document purports to recognize the inherent right to self-government and then goes on to describe three areas of powers. The first group are those which the federal government is prepared to "allow" First Nations to operate, the second is a group of powers which the federal government is willing to negotiate, and the last is a group of powers which the federal government reserves for itself (pp. 5-7). These definitions are not consistent with the inherent right.

The other change is that the federal government, in this new document, is now discussing the end of its fiduciary responsibility. In its policy statement it says that if First Nations wish to have jurisdiction over certain matters then they must be responsible to their membership. The fiduciary responsibility of the federal government for such programs would be at an end (p. 12). How this will affect treaties has yet to be determined.

This new policy recognizes that there is not one Indian position but that individual First Nations will be at different stages of development and desire to implement self-government. The government is willing to enter into negotiations on a Band by Band basis. This means that they have effectively cut the formal Indian political organizations from the picture. They are no longer willing to negotiate with AFN or with the province wide Indian organizations in favour of dealing directly with the individual First Nations.

## Indian Concept of Self-Government

Long (1990) suggested that the question of what will constitute self-government and what shape it will take must be decided by Indian people themselves. Mercredi (1993, p. 117) also made the point that only the First Nations can decide what their governments will look like and it will be an evolutionary process that will design governments to meet the needs of the First Nations people. Fleras (1992) refers to this discussion of what aboriginal governments should look like to be a debate between the "full box" and the "empty box". Native leaders are saying that the right to self-government is an inherent one and that they will decide what powers their governments will exercise and what powers they will allow the federal government to exercise on their behalf. The adherents to the "empty box" concept believe that self-government is a delegated right and that the senior government, the federal government, will determine what powers and what level of power, Indian governments will exercise (p. 65).

Some provincial and federal politicians have worried that the development of Indian self-government would create a "swiss cheese" Canada with a number of independent nations within Canadian territory. However, Mercredi (1993) pointed out, "First Nations governments would not be cut off or isolated from federal, provincial or municipal governments. As a practical matter, all governments have to co-ordinate their efforts and their respective jurisdictions" (p. 108). Mercredi's position was based upon comments made by an earlier National Indian

Brotherhood Chief; David Ahenakew, when he said: "I ask that no one misinterpret our words . . . to mean that we are separatists -- seeking to divide Canada and assert the status of foreign nations. . . . We are committed to strengthening and building Canada -- not to dismantling it" (Asch, 1988, p. 35). Mercredi has also stated, " Those First Nations prepared to start discussing their government's areas of jurisdiction -- such as child welfare, education, economic development, and justice -- would meet with senior federal and provincial political representatives to formalize new relationships among the governments" (p. 234).

For Mercredi and the Assembly of First Nations, the development of self-government is necessary to the development of the peoples it represents. As Mercredi stated in 1993:

> You see, this is what self-government or self-determination is about for our peoples. It is about self-respect, self-esteem and the future of our distinct cultures and identities. Self-determination is a basic human right. It is enshrined in international laws, discussed in religious scriptures and extolled in music and literature. Yet we have been denied that right. (p. 245)

Boldt (1984) also said, "Indian tribes, prior to colonialization, held an independent self governing status . . . they regulated their internal and external relations" (p. 545). A final quote from the Declaration of the First Nations as cited in Barman clearly states the Indians' position regarding self-government:

> The Creator gave us laws that govern all our relationships to live in harmony with nature and mankind. The laws of the Creator defined our rights and responsibilities. The creator has given us the right to govern ourselves and the right to self-determination. We

> are Nations. We have always been Nations. We have never given up our sovereignty. We retain the right to choose our forms of government . . . to control our lands, waters and resources . . . to use our languages . . . to practice our religions and to maintain all aspects of our cultures. We retain the right to determine the type of education most suitable for our children. (Barman, 1987, p. 29)

## The Indian Act

In Canada the Indian Act, a piece of legislation of the federal government, has been one of the major factors working against Indian self-government. The first Indian Act dates back to 1868 and major revisions have occurred in 1951 and in 1985. However, the intrusive nature of the Indian Act has not changed. According to Mercredi (1993):

> The Act is a cradle-to-grave set of rules, regulations and directives. From the time of birth . . . until the time of death when the Minister of Indian Affairs acts as executor of the deceased person's estate, our lives are ruled by the Act and the overwhelming bureaucracy that administers it. (p. 81)

Frideres (1983, p. 32) said:

> The Indian Act, originally designed both to protect the Native population and to ensure assimilation, has not weathered the centuries well. Not only has it structured inequality, poverty and under-achievement among Natives, but is has seriously encroached upon the personal freedom, morale, and well-being of Native people.

The Indian Act has imposed a system of government that is alien to the First Nations and it has severely restricted the ability of local governments to deal with issues important to the people:

> The powers given to Band councils are limited in one of two ways. The Band must either obtain ministerial approval for actions it has taken, or it must request that the Minister act on its behalf by

> making a regulation or order affecting the Band in question. (Asch, 1988, p. 121)

The Indian Act has also created an attitude of dependency among the First Nations so that even now some Indian organizations cannot conceive of a system of self-government other than that imposed by the Act. The traditional values and systems of governing have been undermined by the Indian Act and it will take concerted action by First Nations people to not only restore their governments but also to restore their peoples' faith in their ability to govern themselves (Mercredi, 1993, pp. 90-91). As Mercredi (1993) also said, "The Indian Act represents something very different from self-government. It is other-government, and the other in this case is the Department of Indian Affairs and its Minister" (p. 82), and later:

> The Indian Act has nothing to do with our wishes or desires. It came from somewhere else, from Parliament, and that is why it has not worked. That is also why the Indian Act and the bureaucracy it bred, the Department of Indian Affairs, are such big impediments to our progress as peoples. (p. 128)

As stated earlier in this chapter Indian Affairs is now offering First Nations a version of self-government which the federal bureaucracy has designed independent of First Nations involvement. This is not real self-government but only self-administration. "We cannot survive and make progress under the totalitarian rule of the Indian Affairs bureaucracy; we have to do it through the free will of our peoples" (Mercredi, 1993, p. 91). The present Indian Act does not allow for this type of development to occur. It is the opinion of the above authors, and other authors quoted in this chapter, that until the Indian Act is repealed or significantly altered, there will be no progress towards the type of self-government desired by the Indian people. The fact that Indian Affairs is still attempting to direct the process indicates that the federal government has a hidden agenda. As Boldt (1993) said:

> The primary purpose is not to empower band/tribal councils; it is to structurally integrate Indian Affairs into the generic federal and provincial government departments. In keeping with this purpose, the federal government has plans to relocate most of DIAND's present policy and decision-making powers among a host of federal and provincial government departments and agencies, while transferring only selected local administrative/clerical responsibilities to band/tribal councils. (p. 109)

## Comparative Aboriginal Self-Government

The search for some form of aboriginal self-government is not unique to Canada. Other aboriginal groups in the world are engaged in the struggle to overcome the effects of colonialism, to retain their identity, and to regain the recognition of the right to govern themselves. Aboriginal peoples in the United States, in New Zealand, and in Australia are engaged in these struggles. The following section provides a brief review of the situation in these countries.

### Aboriginal Self-Government in the United States

In the United States the concept of aboriginal Nations has the same source as in Canada. That is, the Royal Proclamation of 1763 set up new colonies in what is now the United States and reserved unoccupied or unpurchased land for the Indian Nations. The attempted forced movement of the Cherokee Nation in Georgia in 1831 led to a court ruling that declared the Cherokee to be a Domestic Dependent Nation and that "the State of Georgia did not have the legislative authority to supersede Cherokee law" (Fleras & Elliot, 1992, p. 135). This was a recognition that the Cherokee Nation had the rights of a self-governing Nation within the United States.

Despite this early victory, the Indian people in the United States have been subjected to a number of forced re-settlements and attempts at assimilation. In 1975 the American Congress passed The Indian Self-Determination and Education Assistance Act which allowed Indian Tribes to become self-governing in the areas of education, economic development and social services (Cook, 1996, p. 13). However, as Morris (1988) pointed out:

> Self-determination is defined by the government, not by the aboriginal nations. In government terms, self-determination denotes nothing more than a federal promise that local Indian concerns and wishes will be considered in the design and implementation of Indian policies. (743)

Successive American federal administrations have been reluctant to undertake meaningful dialogue with Indians and, therefore, few agreements have been negotiated. However since self-determination is still determined by the federal government, the tribes in the United States are essentially administering federal programs under contract. In his review of American Indian policy during the Reagan years, Cook (1996) commented:

> One area in which the BIA appropriations increased was that of tribal contracts, for the tribal administration of federal services.

> This is not surprising, for tribal contracting would place more administrative responsibility for domestic programs in the hands of the tribal governments, and might prepare tribes to assume greater financial responsibility for such programs. (p. 19)

Cook suggests that the Reagan administration was simply trying to reduce federal expenditures and shift responsibility, but not authority, to the tribal governments.

The fact that American Indian Nations have also been considered as wards of the government has also meant that it is difficult to progress towards self-government:

> For American Indians sovereignty has remained elusive as the result of the Federal trust status imposed by Congress on the allocation, sale, development, and management of tribal resources, despite the provisions of the Indian Reorganization Act of 1934, and the Indian Self-Determination and Educational Assistance Act of 1975. (Downing, 1993, p. 92)

As in Canada, the federal Bureau of Indian Affairs in the United States has consistently thwarted any real progress towards self-government in a effort to protect its own bureaucracy. However, during the Bush presidency there was some small progress. The Tribal Self-Governance Demonstration Project was established which allowed some tribes to receive funding directly from the federal government rather than through BIA. By by-passing BIA the tribes obtained a degree of self-government previously unknown (Cook, 1996, p. 23).

## Aboriginal Self-Government in New Zealand

The Maori of New Zealand base their relationship with the government of New Zealand on the Treaty of Waitangi:

> The Treaty of Waitangi is a unique document. Unlike the Canadian treaties, it was signed at a time when Maori people held most of the land and were many times more numerous than were the settlers. It recognized the prior existence of Maori title, and it did not restrict the exercise of aboriginal government to reserves. In addition, in exchange for the surrender of sovereignty the treaty recognized the Maori right to govern their own people.
> (Armitage, 1995, p 141)

Despite the guarantees contained in the Treaty of Waitangi the Maori were subjected to the same attempts at cultural genocide and assimilation which other aboriginal peoples faced as a result of the colonial policies. The Maori have been engaged in a struggle to maintain their language and culture in the face of a larger, dominant culture intent upon assimilation. A Maori saying expresses their views of the policies of assimilation which some New Zealand governments have been advocating:

> Let's Integrate! the shark said to the kahawai, and opened its mouth to swallow the small fish for breakfast.
> (Fleras & Elliot, 1992, p. 182)

Despite the past policies of assimilation, the Maori have obtained some recognition of the Treaty of Waitangi as a guarantee of their partnership participation in New Zealand society as well as to promote their distinct status. Since 1986, the governments of New Zealand have adopted the Treaty of Waitangi as the basis for its relationships with the Maoris. The Treaty establishes the concept of two nations and promotes Maori sovereignty over language, culture, land, and indigenous human rights and restricts the application of regional and national laws if they violate the spirit of the treaty (Fleras & Elliot, 1992, p. 189).

## Aboriginal Self-Government in Australia

The Aborigines of Australia have also been faced with policies of assimilation similar to those in North America and in New Zealand. However, by the 1960s some states of Australia had passed legislation providing for land rights for Aborigines and provision for the consultation and negotiation with Aborigines (Jordan, 1988, p. 269). These policies were later adopted by the federal government, and Aborigines have taken advantage of the opportunity to develop political, cultural, physical and educational institutions which will meet their needs:

> Within Aboriginal communities, current policy emphasizes self-government. In the Northern Territory, land councils provide Aboriginal people with the means to organize their affairs independently of the state government. In other areas of Australia, community self-government has a more limited meaning, as the community land base is often small and its use restricted. In Queensland, for example, Aboriginal communities occupy land through restrictive, long-term government leases.
> (Armitage, 1995, p. 21)

Despite the restrictive policies and despite the fact that during the colonial period Aborigines were dispossessed of their land, they are taking steps to keep their culture and languages alive. The sayings "The people are the boss!" and "We will do it ourselves!" have become slogans for action among the Aborigines' communities (Jordan, 1988, p. 270). Despite this progress there is still a lack of a co-ordinated national body to speak for the interests of all Aborigines. Separate lobby groups exist for education, lands, housing, etc. but there is not a national body (Ponting, 1991, p. 277).

## Summary

The policy of the federal government with regard to aboriginal rights and title to the land has been one of extinguishment. Despite this policy, the Indian Nations have made some progress in obtaining recognition of their right to self-government and implementation of the concept of Indian control of Indian education.

The various documents and legal decisions described above, support the views of the Indian people that they were self-governing peoples prior to signing of treaties and that they never gave up their right to continue to be self-governing communities. The Royal Proclamation, the Indian interpretation of the treaties, court decisions and recent constitutional amendments all support the inherent right of Indians to be self-governing. Recent constitutional negotiations have been aimed at enshrining the concept of an inherent right to self-government and to establishing mechanisms for the accelerated development of Indian self-government. Despite these supports, the federal government, through the Indian Act, has consistently put forward roadblocks or has attempted to manage the process for its own purposes.

As has been pointed out earlier, one indication of a self governing people is their ability to control and operate an education system that will benefit their children. Therefore, the court cases and other legislation examined above provides a basis for the existence of self-government and the operation of First Nation or Indian controlled schools:

> The argument that might be presented is that the aboriginal or customary rights of Indians over the education of their children was never surrendered by treaty. The treaty merely recognized that in return for a release of their aboriginal interest in the land upon surrender, the Crown agreed to assist Indians in the education of their children but not terminate the Indian's responsibility to educate them. (Federation of Saskatchewan Indian Nations, 1986, p. 39)

The struggle for self-government and to overcome the effects of colonialism is not only a Canadian phenomenon. Aboriginal peoples in the United States, New Zealand, and Australia are engaged in similar struggles and are experiencing similar frustrations.

# CHAPTER IV

# A BRIEF HISTORY OF INDIAN EDUCATION

The history of Indian education in Canada is not one in which either the Indian or the dominant society can take much pride. "The history of formal education of Indians in Canada is marred by failure, . . . for hundreds of years we have been victims of a colonial mentality . . . intent only on transforming us into 'their' culture. The results have been devastating" (Kirkness, 1985, p. 1). Early missionaries established schools for Indians long before there was a Canadian government with the motive of "civilizing and christianizing Indians Fleras (1992), suggested that the policy of the Canadian government, from the beginning was assimilation of the Indian people; and missionaries, teachers and law-makers were seen as the implementors of this policy (p. 41). Even with the best intentioned management of integrated schools, the results for the Indian students have been far from satisfactory (Elofson, 1988). The attitude towards the Indian people expressed by early Canadian governments may be one reason why the education of Indians has not been very successful:

> In 1874, Sir John A. MacDonald introduced the original Indian Act saying; 'Indian children should be taken away from their parents so as to eliminate their barbarian influence and expose the children to the benefits of civilization. The teacher has been sent out as an educational missionary to introduce cultural changes in Indian societies. (Green, 1990, p. 36)

Alexander Morris, as cited in Frideres (1983), who negotiated many of the numbered treaties said:

> Let us have Christianity and civilization to leaven the masses of heathenism and paganism among the Indian Tribes; let us have a wise and paternal government faithfully carrying out the provisions of our treaties. (p. 2)

and Duncan Campbell Scott, who was the deputy superintendent of the Indian department from 1913 to 1932 stated:

> Our objective is to continue until there is not a single Indian in Canada that has not been absorbed into the body politic, and there is no Indian question. (Smith, 1993, p. 38)

Although the rhetoric has been modified over time, the federal government policy of assimilation has remained intact until the present (Dickason, 1992, p. 284).

In 1969 the Federal Government put forward a White Paper proposing the transfer of the responsibility for services to Indian peoples to the provinces (Chretien, 1969). The response by the First Nations was swift and negative. They saw the proposals as an abrogation of the treaty responsibilities of the federal government and of the special relationship which exists between the Indian people and the crown. In 1972 the National Indian Brotherhood published a partial response to the White Paper. This "Orange Paper", concentrated on the concept of local control of Indian Education (NIB, 1972), and will be the topic of further discussion later in this chapter.

## Early History

The history of Indian education in Canada precedes that of education for European settlers. The early explorers and settlers of the so called "new world" thought that it was their duty to provide education to the "primitive" Indians whom they encountered. The European explorers and colonialists who came to North America, brought with them their own culture, religion and standards of civilization by which they measured the Indian societies (LaRocque, 1978, p. 10). Europeans: "saw characteristics in Indian people which they designated as inferior and which gave them the moral authority to impose their own version of civilization" (Pauls, 1996, p. 24). They selectively refused to believe or understand that the Indian peoples already had comprehensive and sophisticated cultures or that they exercised ownership of the land. In 1668 Louis XIV of France directed the clergy to "civilize the Indians by changing their religion and by encouraging them to change their traditional way of life" (Perley, 1993, p. 122). This ethnocentric colonial attitude is exemplified by the words of John Stuart Mill in his book *Principles of Political Economy* as quoted in Said (1995):

> These [outlying possessions of ours] are hardly to be looked upon as countries, . . . but more properly as outlying agricultural or manufacturing estates belonging to a larger community. Our West Indian colonies, for example, cannot be regarded as countries with a productive capital of their own . . . [but are rather] the place where England finds it convenient to carry on the production of sugar, coffee and a few other tropical commodities. (p36)

No doubt the same thoughts were applied to North America which was seen only as a source of precious metals, fish, and fur to meet the needs of European societies. This opinion indicates a flagrant disregard for the aboriginal peoples occupying the land. This ethnocentric attitude provided the framework for the Europeans' belief that they had a duty to provide instruction in civilization to the Indians. Memmi (1990) suggested that objectifying and degrading the colonized is necessary in order for the colonizer to rationalize their actions (pp. 145-155).

### Religious Schools

For Europeans of the time, the first prerequisite for civilization was Christian religion (LaRocque, 1978) and this implied the belief that the existing Indian religions were neither as valuable nor as sophisticated as European religions. The French missionary/explorers who came to Canada were quick to establish schools for the children of the Indians (Kirkness, 1992, p. 7), the purpose of which was to provide the benefits of the Christian religion (LaRocque, 1978, p. 17; Phillips, 1957, pp. 4-7). In 1616 Recollets missionaries had established a school in what is now Trois Rivieres (Phillips, 1957, p. 4), and the first industrial school was opened in 1676 on the island of Montreal by the Sulpician Order (Daniels, 1973, p. 55; Dickason, 1992, p. 343). Neither the French nor the colonial government were interested in education so the religious organizations were left to manage the education of Indians as they thought best.

Later, in Upper Canada the same pattern of allowing religious organizations to provide Indian education was followed. The Iroquois Chief Thayendanega (Joseph Brandt) established a school on the Grand River and had the teacher's salary paid from military funds. However, the Church of England Missionary Society was also involved in the operation of the school (Daniels, 1973, p. 59). Government interest in Indian education did not begin until long after the pattern of religious organization involvement was well established.

## Beginnings of Residential Schools

In 1845 Edgerton Ryerson presented a report to the legislature of Upper Canada recommending the establishment of industrial boarding schools for the education of Indians (Haig-Brown, 1988, p. 25). These schools were to be operated in conjunction with the churches and were to be jointly funded. The purpose of these schools was to provide religious instruction and teach the work ethic. The schools were to be self sufficient communities and, as a result, more time was spent by students on farming and on tasks related to the maintenance of the institution than on schooling (Daniels, 1973, p. 64).

Ryerson suggested the following daily schedule for the students of these schools:

> The children would rise at five in the summer, attend to the policing of the house, and have prayers and lessons in the school until seven, labour from eight until noon, dinner and intermission from twelve to one, labour from one to six, supper at six, lessons till eight, and retire to bed between eight and nine.
> (Daniels, 1973, pp. 64-65)

Ryerson's schedule assumed a sixteen hour day for the children, two and a half of which were spent in instruction and ten hours of which were to be spent working. The remaining time was spent in religious exercises and meals. Until the demise of the religious residential school system in the 1970s, some part of every student's day was taken up with agricultural or housekeeping tasks for the maintenance of the school.

The involvement of religious organizations in the provision of education for Indians thus has a long history dating from the earliest contact between Indians and Europeans and has been a continuous theme in Indian education until relatively recently.

The Indians' perception of the utility of these schools is illustrated by the following quote from Red Jacket of the Iroquois confederacy in response to an offer of education from the commissioner of the Virginia colony in 1744:

> Several of our young people were formally brought up at the colleges of the Northern provinces . . . but when they came back to us they were bad runners, ignorant of every means of living in the woods; unable to bear either cold or hunger; knew neither how to build a cabin, take a deer or kill an enemy; spoke our language imperfectly; . . . they were totally good for nothing.
> (Barman, 1987, p. 22; Daniels, 1973, p. 148)

## The Residential Schools

In the previous chapter, the expansion of Canada into the West after confederation was discussed. The treaty making process proceeded at an accelerated pace and promises to provide the Indians with education were made. The federal government was then faced with the difficulty of fulfilling its promises to supply schools and teachers for Indians. The government quickly decided that it would be more economical to provide education for Indians by entering into partnerships with existing religious organizations rather than operating its own schools (Dickason, 1992,

p. 333). The models of the industrial schools as established in Upper Canada and the American policy of establishing separate residential schools for Indians were adopted (Barman, 1986, p. 6). The Department of Indian Affairs participated in the establishment of such schools with the proviso that "schools be operated so far as possible by missionaries, who had already demonstrated their commitment to 'civilizing' Canada's Indians" (Barman, 1986, p. 6; LaRocque, 1978, p. 1). The quotes from Sir John A. MacDonald and Duncan Campbell Scott at the beginning of this chapter illustrated the attitude of the government towards Indians.

## Purpose of the Residential Schools

Dickason (1992) stated that while the Indians were interested in acquiring the knowledge of the white society, the whites saw the schools as the opportunity to "civilize" and assimilate the Indians (Dickason, 1992, p. 333). The first Indian Act passed in 1876 had a provision that any Indian who acquired a university degree, or became a notary public or any kind of clergyman shall become enfranchised (LaRocque, 1978, p. 35). In other words, if Indians sought an education and were successful in their schooling, it would mean a loss of their legal Indian identity and status.

Many Indian people who have survived the residential school system do not have positive memories of the "civilizing" process they endured. It was evident from government policy that the purpose of the residential schools was cultural genocide. By taking children away from their families and forbidding the use of Indian culture or languages the churches hoped to extinguish Indianess (LaRocque, 1978; Kirkness, 1985;

Ponting, 1991). Smith (1993) said, " The church run schools were all in business for just one reason -- to drive a wedge between the students and their culture, to turn Indians into budding young Christians trained in the work ethic" (p. 42). Haig-Brown (1988) provides some examples of the "civilizing" process which have been related by survivors of the experience:

> The elimination of language has always been a primary stage in a process of cultural genocide. . . . (a student) was physically punished for speaking Tsehaht: they pushed sewing needles through his tongue, a routine punishment for language offenders.
>
> At the residential school we were not allowed to speak our language; we weren't allowed to dance or sing because they told us it was evil. It was evil for us to practice any of our cultural ways.
>
> Food in the school was rarely fit for swine, but the staff had their own cook and dining room . . . the kids were hungry most of the time.
>
> That one priest he was kind of odd. . . . and all of a sudden he started to feel my legs. . . I just got up and moved away but I never thought to tell anybody.
>
> Homosexuality was prevalent in the school. Sexual favours brought protection, sweets and even money to buy booze.
>
> Children who ran away were punished severely: the ones who were brought back had their heads shaved, some got expelled, some got twenty lashes.

Earlier, the word "survivors" was used in relation to comments made by some of the interviewees in Haig-Brown's book. This was a purposeful statement since a student's survival was indeed in question. Not only was the survival of their culture, language and self-respect threatened, but physical survival was also very much in doubt:

> The residential school was most noted for the incredibly high mortality rates among the students. At about the turn of the century, it was estimated that 50% of the children who passed through these schools did not live to benefit from the education they had received therein. (Kirkness, 1992, p. 10)

During the period 1870 to 1930 the number of residential schools operated in co-operation between the churches and the federal government continued to grow (Daniels, 1973, pp. 66-68). A maximum number of eighty such schools was reached in 1931. The curriculum changed gradually over the years but the essential purpose of the school, to civilize and convert the Indians, remained until the religious residential schools were closed in the late 1970s.

Life in these schools was not easy for the students. Although the harsh routines outlined earlier in this paper were modified over time, students were still taken, sometimes forcibly, from their homes and placed in an environment which was unfamiliar to them.

Haig-Brown describes how some students were taken to school:

> The school truck used to come and you went up the stairs as your name was called. For many children it was their introduction to a way of life in which their family identity was obscured, their language became useless and even despised and their personal identification was a number written in purple ink on their wrists. (Haig-Brown, 1987, p. 43)

and finally Smith provided this damning summary of the residential school system:

> Children were wrested from their families once they reached school age and sent to spend 10 months of every year in grim institutions

> where they slept in big dormitories, were often beaten for speaking their own language. . . . They were separated from their brothers and sisters and spent as much time working the school farms as they did in the classrooms. Entire generations were alienated from their language, the richest part of their culture. . . . The children of the residential school era emerged unsure of just who and what they were -- Indian by race, Christian reform school by training, and often utterly incapable of fitting into either world. (p. 42-43)

The forced separation of children from parents is, according to the 1948 United Nations Convention on the Prevention and Punishment of the Crime of Genocide, one of the primary indicators of genocide, (Armitage, 1995, p. 6).

## Legacy of the Residential Schools

The residential schools have left a devastating legacy. The quality of teaching in the schools was often problematic, which should not be surprising since the staff were primarily motivated by religious considerations rather than educational ones (Barman, 1986, p. 10). Children spent long periods of time away from home and were constantly being told what to do and think. As a result, generations of Indians have grown up not having developed the self confidence to cope with an independent existence in adulthood (Barman, 1986). "Residential schools have had a traumatic impact on Aboriginal children and family life and account for many of today's problems of violence, addiction, loss of culture and loss of self esteem" (Royal Commission on Aboriginal Peoples, 1992b, p. 3). The following quote from Elder John Tootoosis exemplifies the Indians' situation:

> When an Indian comes out of these places it is like being put between two walls in a room and left hanging in the middle. On one side are all the things he learned from his people and their way of life that was being wiped out, and on the other are the white man's ways which he could never fully understand. Here he is hanging in the middle of the two cultures and he is not a white man and he is not an Indian. They washed away practically everything an Indian needed to help himself, to think the way a human person should in order to survive.
> (Barman, 1986, pp. 10-11; Dickason, 1992, p. 336)

Kirkness (1992) stated that the residential schools deprived generations of Indians of the knowledge of their own identity and Indianess. They have left a legacy of cultural conflict, alienation, poor self-concept and lack of preparation for independence, for jobs and for life in general (p. 12). Cardinal (1969) noted that a primary consequence of the residential school system was to "turn the child against education, preventing him from seeing or appreciating the benefits of a real education" (p. 55). Smith (1993) said:

> Many Indian and Inuit adults still bear the emotional and sometimes physical scars of the old residential schools. Instead of producing good little 9-to-5 wage earners for the nation, many of the Church run residential schools turned out sadly dysfunctional young people unsure of just who they were. (p. 19)

In light of this devastating legacy, the First Nation governments who are attempting to regain control over the education of their children face an almost insurmountable task. The years of educational neglect and the negative connotations of education as a result of the religious residential schools will take many years of dedicated effort to overcome.

## Indian Education to 1969

In the late 1940s it became evident that the system of residential schools was not serving the government's purpose of assimilation nor was it providing anything but the most minimal education to Indian students. In 1946 a joint committee of the Senate and House of Commons was appointed to revise the Indian Act. One of the major recommendations was the proposal to school Indians with non-Indians and, as a result, to phase out the operation of the residential schools (Barman, 1986, p. 13). The Indian Act was amended in 1951 to allow for the entering into agreements with provincial jurisdictions for the education of Indians. In addition the federal government began to operate schools on reserves, finally beginning to fulfill the commitments that had been made in treaties (Lawrence, 1987, p. 12).

The two difficulties of unsophisticated and irrelevant curriculum and the unarticulated but pervasive desire of the government for assimilation of the Indians, remained in effect until 1973. Increasing numbers of schools were being operated by the Department of Indian Affairs on reserves but only minimal programming and funding were being offered. At the same time, tuition agreements were being signed with provincial jurisdictions for the education of Indian children off reserve. The next major development in Indian education was the 1969 White Paper, a policy proposal issued by the Department of Indian Affairs.

## The White Paper

In 1969 the federal government of the day re-evaluated the traditional attitude towards Indians and admitted that past policies had been a failure (Surtees, 1982, p. 54). The result was a policy paper which proposed far reaching changes to the relationship between the federal government and Indians (Brizinski, 1989, p. 185). "It sought to abolish Indian status, accelerate absorption into the mainstream, terminate federal obligations, allocate reserve resources to individual ownership, devolve services and support to provinces, and phase out the Department of Indian Affairs (Fleras, 1992, p. 43). According to the federal government, the purpose of the White Paper was to ensure equality for all Canadians and to remove what the government considered to be discrimination against Indians from the relationship between Indians and government (Chretien, 1969a). The policy was in agreement with the liberal philosophy of the existing government. Weaver, (1981) made this point:

> The liberal ideology . . . provided a powerful framework for the development of Indian policy. With its focus on the individual's equality and freedom, liberalism as a system of ideas ignores the social collective by framing political rights in terms of the individual. (p. 55)

The government stated in its policy that "True equality presupposes that the Indian people have the right to full and equal participation in the cultural, social, economic and political life in Canada" and, that in order to accomplish this, "services [should] come through the same channels and from the same government agencies for all Canadians", and that, "Separate but equal services do not provide truly equal treatment" (Chretien, 1969b, pp. 6-9).

In the paper the Department suggests that the treaties which were signed were of minimum importance and that the promises that they contained were minimal or had already been discharged. "The significance of the treaties in meeting the economic, educational, health and welfare needs of the Indian people has always been limited and will continue to decline" (Chretien, 1969b, p. 11). Therefore, the government proposed that "these treaties be reviewed to see how they can be equitably ended" (p. 11). The policy paper did recognize the fiduciary responsibility of the federal government for Indians and proposed to satisfy this responsibility by transferring funds to the provinces so that they could deliver the services.

However egalitarian the intentions of the government may have been, no account was taken of the special relationship which exists between the federal government and the Indian Nations as a result of the signing of treaties. The intention of the policy paper was plain; to eliminate the treaties and therefore the special relationship of Indians to the Crown, and to hasten the assimilation of Indians into white society. The philosophy of the Prime Minister of the day influenced the direction of this policy. Prime Minister Trudeau did not believe "that the future should be fettered to the chains of the past." He said: "I am against any policy based on race or nationalism" and in defending the denial of aboriginal rights in the White Paper he said, "no society can be built on historical 'might-have-beens" (Weaver, 1981, pp. 54-55). It is interesting to compare this statement with Mr. Trudeau's apparent wholehearted support of Indian self-government in 1984.

## Indian Reaction to the White Paper

Reaction to this policy statement from the Indian people was swift and negative. While the federal government saw the special constitutional basis for the relationship between Indians and the Crown as discrimination, (Chretien, 1969b, p. 8), the Indians saw the relationship as a special one based upon their original ownership of the land and the treaties which were negotiated nation to nation. The federal government had also failed to take into account the emotional attachment the Indian people had to the treaty relationship as illustrated in conversations with Elders (Price, 1980). The announcement of the White Paper provided the catalyst for the Indian leadership to redouble their efforts to build provincial and national organizations through which they could lobby for their own proposals (Weaver, 1981, p. 5; Green, 1990, p. 37, Fleras, 1992, p. 44). In 1970 the Indian Chiefs of Alberta responded with a "Red Paper" entitled Citizens Plus in which they described the historic treaty relationship which exists between the original Indian owners of the land and the Crown. The Red Paper also pointed out that no act of parliament could over-ride that special relationship.

In 1972, a further response to the White Paper was published by NIB entitled Indian Control of Indian Education. This "Orange Paper" was written by the Federation of Saskatchewan Indians and described the need for Indian Control of Indian education. As a result of this "Orange Paper" published by the National Indian Brotherhood (NIB), most First Nations now operate their own schools on their reserves.

As a result of the intense opposition faced by the government from the Indian leaders, from the press, and from the opposition parties, the government was forced to retreat and the policy proposal was officially withdrawn in the Spring of 1971 (Weaver, 1981, p. 5) with Minister of Indian Affairs Chretien announcing that "the government would not force the directions of the White Paper but would negotiate future policy with Indian leaders" (Brizinski, 1989, p. 192).

## Indian Control of Indian Education

As a result of the White Paper, the Indian political groups decided to make counter policy proposals which would honour the special relationship between themselves and the Crown and would give Indians a greater degree of control over their own lives. One of the documents, produced by the National Indian Brotherhood, concerned education and was entitled Indian Control of Indian Education. This policy paper which was presented in 1972 is often called the "Orange Paper" as a result of the colour of its cover and as a parody of the "White Paper." A summary of the policy proposals contained in the paper is presented in Kirkness (1985, pp. 2-6) and in Yuzdepski, (1983).

It has been an historical anomaly that every other community in Canada has meaningful input into decisions about who taught their children and what they were taught. This commonly recognized right was unavailable to Indian People (Green, 1990, p. 38). The Orange Paper clearly outlined the desire of Indian people to be involved in all aspects of their children's education:

> Based on two education principles recognized in Canadian society; *Parental Responsibility* and *Local Control of Education,* Indian parents seek participation and partnership. We assert that only Indian people can develop a suitable philosophy of education based on Indian values adapted to modern living. (NIB, 1972, p. 3)

The paper also discussed, in some detail, jurisdictional issues and recommended that any transfer of the responsibility for Indian education could only be from the federal government to the First Nations, not to the provincial departments of education (NIB, 1972, p. 5). It might be appropriate to note, at this time, that although this policy paper was accepted by the Department of Indian Affairs in 1973, there is still no provision in the Indian Act which allows for the transfer of education funding from the federal government to First Nations (Hawley, 1986, p. 78).

The Orange Paper was written as a response to the White Paper but also as a result of increasing dissatisfaction with the state of Indian education. The residential school experience had left deep scars and the more recent policy of integration had not been a success as far as Indian people were concerned. With regard to integration the Orange Paper said:

> Integration viewed as a one way process is not integration, and will fail. In the past, it has been the Indian student who was asked to integrate: to give up his identity, to adopt new values and a new way of life. This restricted interpretation of integration must be

> radically altered if future education programs are to benefit Indian children. (NIB, 1972, p. 25)

This statement was confirmed many years later by Betz (1991, p. 10) when he said that "Rapid erosion of traditional culture through attempts at quick assimilation produced cultural disintegration not cultural replacement."

The Orange Paper recognized two principles; that the federal government had responsibility for the provision of funding for education under obligations outlined in treaties; and that Indian communities and parents should have control over the operation of the schools and the curriculum taught in the schools (Ward, 1986, p. 11; Barman, 1986, p. 15). In order to implement this control, the paper advocated the establishment of local Education Authorities who would have authority over budgets, school facilities, hiring of staff, adult education, negotiations for tuition agreements, and evaluation of education programs (NIB, 1972, pp. 6-7; Daniels, 1973, p. 201). In many ways this paper was ahead of its time as shown by the 1989 United Nations International Convention on the Rights of the Child. One article of the Convention "stipulates that states should recognize that education should be directed to the development of respect for the child's own cultural identity, language and values" (Betz, 1991, p. 7).

The importance of this paper cannot be over emphasized. Its public acceptance by the Department of Indian Affairs as department policy has meant that the focus and direction of Indian education in Canada has changed. The increase in the number of First Nation schools since the acceptance of the paper has been phenomenal and the degree of success experienced by Indian students is steadily improving. It has also meant that the underlying jurisdictional issues have not been addressed and, as a result, Indians are administering federal government programs. The control and decision making discussed in the Orange Paper as properly belonging to Indians, has remained with the Department of Indian Affairs. The next section of this chapter will deal with First Nation schools and outline some of the successes and failures of these schools.

### First Nation Schools

As a result of the Orange Paper and the subsequent acceptance of the policy proposals contained therein by the Department of Indian Affairs and the federal government, the turnover of control of the education operation to First Nations has continued until the present time. The management of education at the reserve level has been shifting to the First Nations since 1973 and today, most First Nations who desire it, manage their children's education. INAC's own statistics indicated that there are 45,665 students attending First Nation schools (Indian Affairs, 1992, p. 43). In 1975 there were 32 First Nation schools but in 1992 that number was 324. There are 575 First Nations, some of which do not have schools and some which still have a federal school (Gayfer, 1991, p. 31). Forty-four percent of First Nations students now attend 324 First Nation schools while there is still forty-seven percent in provincial schools and nine percent in federal schools (Kirkness, 1992, p. 2; Indian Affairs, 1993, pp. 13-15; Smith, 1993, p. 20). According to Indian Affairs records (1993) the amount of money spent per Indian student has increased at an average rate of 7.1 percent and the percentage of Indian children who complete high school has risen from 33.9 percent in 1985-86 to 47.0 percent in 1990-91 (p. 14). Although First Nation schools can legitimately take some credit for the increased success rate of Indian students the issue of control and jurisdiction is still unresolved. Indian control of Indian education is still a primary concern for Native peoples (Royal Commission on Aboriginal Peoples, 1992b, p. 29; Cheater, 1993).

The turnover of the management function to the First Nations has caused some difficulty in the operation of the schools. Indian Affairs guidelines for takeover have been ambivalent at best and many issues of control remain unresolved. The jurisdictional issues are not clear and the articulation between First Nation schools and provincial departments of education requires clarification (Ponting, 1991, p. 271-272).

Although First Nation schools are essentially autonomous entities, one of the conditions which Indian Affairs attached to the transfer of the management function was that the First Nations must follow the provincial curriculum. However, the logistics of how the First Nations should access information about provincial curricula or who should decide that they were in fact following the prescribed provincial curricula, were never resolved. The recent and ongoing down-sizing of the Department of Indian Affairs has meant that the First Nations have little access to advice from Indian Affairs about curriculum issues, other issues involved in operating a school, or how to establish a working relationship with the provincial department of education.

## Control Versus Administration

There has been some debate about what kind of control First Nations actually have over the education of their children. There are some who suggest that since budgets are still set in Ottawa, the First Nations are not in control but are merely fulfilling an administrative or management role. Kirkness (1985) suggested that the slow devolution of programs from Indian Affairs to First Nations has meant that "Indians are now operating Department of Indian Affairs programs" (p. 6). Urion (1992) suggested that devolution of programming has not meant self-government or Indian control (p. 2) and went on to describe the difference between control and operation (p. 3). Hall (1992) pointed out that control consists of having the ability to direct the development of an education system and that as long as Indian Affairs still has control of the funding and the budgeting process, First Nations are not able to control; only administer. Goddard (1993) stated the difference between control and administration clearly:

> Control implies that one has the ability to change, experiment, develop, and grow; it implies that one can identify needs and then plan and implement strategies to meet those needs; it implies that one can control income and expenditures, establish criteria for success, and have direct governance of one's own affairs. This is not the case when one refers to a band controlled education system. The bands can manage their operational funding within certain guidelines developed by INAC, but they have no say in the level of funding received. . . . In essence, bands have been given the right

> to control the *management* of their education systems within parameters established and monitored by the federal government. (p. 165)

Ward (1986), concluded that "The DIAND continued to lay down conditions and guidelines thereby effectively maintaining for themselves financial, administrative and executive control" (p. 14). The final word belongs to Mercredi as stated in his 1993 book:

> There is an important distinction between self-determination and self-administration. The Department of Indian Affairs would have us embrace the second option . . . but it is self-determination that we seek. . . . A First Nations Government must be able to decide whether to establish its own standards or whether to follow provincial standards. . . . In some cases, provincial standards don't apply. In education, for example, we need a combination of First Nations and provincial curricula in order to teach First Nations languages, customs, traditions and history. (p. 94)

It can also be argued that First Nations do in fact exercise a considerable degree of control in the operation of their schools. Gardner (1986) described the many modifications and adaptations which the Seabird Island community has implemented in its school so that the program reflects the culture of the community and the needs of the students. Similarly, Pauls (1987) reviewed some of the success of locally managed schools in terms of curriculum adaptation, success of students and hiring of Native staff as a result of the First Nation operating and directing their schools (pp. 64-65). Krotz (1992) provided figures showing that seventy percent of money designated for native people is now administered by aboriginal organizations (p. 264), and Ponting (1991) suggested that Indian people are significantly involved in the control of

Indian education. Cummins (1985) also made the point that many First Nation schools are following the provincial curricula but with locally initiated modifications to suit their particular needs.

Those First Nation schools which have decided to follow the basic provincial curricula are concerned that their children should receive an education comparable to that which is received by other children in the province so that their students will be able to move smoothly from the First Nation school to provincial schools if necessary. In addition, many Indian parents have considered the transition from high school to post-secondary institutions and want to be sure that their students are prepared to move to post-secondary institutions directly from high school. Cassidy (1990, p. 96) suggested that even as self governing Nations, aboriginal governments will have to make arrangements or accommodations with other governments to ensure that services such as education are appropriately provided to its students.

The philosophy statement of the Onion Lake First Nation demonstrates the desire of parents to give their students an education that will allow them to be comfortable in both the Indian and non-Indian worlds. "The Onion Lake Education System must prepare our students to participate with competence in both the Indian and non-Indian worlds, and to appreciate the merits of both" (Onion Lake First Nation, 1996, p. 1; Kirkness, 1992). This statement is based upon the philosophy statement made in the original 1972 Orange Paper (NIB, 1972, p. 1).

## Impediments to First Nation Control

The Department of Indian Affairs accepted the Indian Control of Indian Education policy paper in 1973 (Ward, 1986, p. 11) and began to prepare for its implementation. A meeting was called to discuss what this would mean but the Minister of Indian Affairs decided that NIB participation would be in an advisory capacity only. The NIB refused to participate in this limited fashion (Ward, 1986, pp. 11-12). Despite this, the Department went ahead and developed a series of guidelines known as E-Guidelines which established program standards, implementation procedures, and funding limitations for local control (Ward, 1986, p. 12). These guidelines were established without consultations with Indian people and were, therefore, in opposition to the principle of Indian involvement in Indian education. Despite this fact, the implementation of First Nation control went ahead piecemeal on the basis of a First Nation's willingness, or judged ability, to conform to Departmental guidelines and regulations.

In 1982, the NIB tried again to obtain Indian involvement in policy making when it presented to the Minister a rationale paper advocating a national survey of Indians to determine what they would like to see in an Indian controlled system. The government refused to fund the survey and, instead, developed its own Indian Education Paper (Ward, 1986, pp. 16-17). This action by the Department illustrated "the government's continuation of unilateral decision making in spite of its having purported to have adopted Indian control of Indian education as federal policy"

(Ward, 1986, p. 17). Ward concludes that the Department of Indian Affairs has never seriously accepted Indian control of Indian education and has effectively been working in opposition to the policy:

> The strategy of the federal government regarding Indian education appears to have been one which continually forced Indians to respond to government proposals and government policies. By diverting Indian energies to responses, the government had not provided a climate conducive to self determination of Indian education by Indian people. (Ward, 1986, p. 19)

Even David Crombie, a former Minister of Indian Affairs, was surprised at the amount of time that his department devoted to obfuscation under the guise of meetings and consultations. "Consultation was the word that allowed the solutions to the problems to be postponed . . . . There is a consultation industry, and that means work for politicians, lawyers. It means money for Indians. It means everything but getting on with the task at hand" (Smith, 1993, p. 62).

### Legislative Void

Despite the fact that there are increasing numbers of First Nation schools and increased funding being directed from the federal government to First Nation governments for the operation of such schools, there is still no legislative method for transfer of responsibility for education from Indian Affairs to First Nations. Section 114 of the Indian Act states:

> 114 (1) The Governor in Council may authorize the Minister, in accordance with this Act, to enter into agreements on behalf of her Majesty for the education in accordance with this Act of Indian children with:
>
> (a) the government of a province,
> (b) the Commissioner of the Northwest Territories,

> (c) the Commissioner of the Yukon Territory,
> (d) a public or separate school board, and
> (e) a religious or charitable organization.
>
> (Hawley, 1986, p. 78)

Transfers to First Nations are accomplished through a treasury board minute. Changing this legal barrier would be a major step towards the development of self-government and a First Nation's ability to operate their own school system.

### Indian Affairs Intransigence

The Indian Affairs bureaucracy is resistant to change which might occasion its demise. As was discussed earlier, a large number of regulations and guidelines have been put forward by the Department over the years. The purpose of these has seemed to be to keep the Indian Nations in a reactive mode so that they are unable to formulate long term plans for education. Simply reacting to Indian Affairs initiated changes occupies the majority of the First Nations administrators' time.

One of the Department's regulations or conditions governing transfer of control of education deals with requiring the First Nation to follow provincial curricula. However, it does not say how this is to be accomplished since there are no formal ties between First Nations and provincial Departments of Education. Nor is Indian Affairs prepared, at this time, to intervene on behalf of the First Nations or to negotiate comprehensive agreements which would allow First Nations access to provincial education services (Brady, 1991). Without some type of formal contact First Nations are unaware of new curriculum initiatives, unable to take advantage of professional development activities, do not know what are the best curriculum materials and do not have access to student testing or other second level services. They are also unable to undertake the task of curriculum development or modification and have these developments recognized by the provincial authorities. The issues of jurisdiction must be resolved so that Indian governments can get on with the task of supplying quality education to their students (Cowie, 1987, p. 49; Cassidy, 1990).

## Summary

The History of Indian education in Canada is a long one and has a central theme. That theme has been the forced assimilation of Indians into the dominant society (Canadian Education Association, 1984, p. 1) and the extinguishment of their language and culture:

> From early contact, the schooling that has been provided for Native people had the primary purpose of socialization and acculturation. European missionaries and settlers saw the Native people as passive recipients in need of knowledge, training and direction from a more advanced civilization. (Pauls, 1996, p. 27)

This colonial and racist attitude has played a central part in historical educational relationships between Europeans and Indians. The residential schools were designed to be the means of affecting this "civilization" and enforcing integration.

The residential school experience has left deep scars on the collective psyche of Indian people. The religious organizations which operated the schools were concerned more with conversion of the Indians to Christianity than they were with providing any kind of useful education. The cruelties which were inflicted upon Indian children in these schools continues to impact negatively on modern Indian education.

The government policies regarding Indians and Indian education underwent significant change beginning in 1969 with the publication of the White Paper. Indian reaction to this policy of assimilation was swift and negative. The history of First Nation schools in particular and the slow movement towards self-government generally can be traced to the Indian response to the White Paper.

First Nation schools are now very common and although there is some debate about the degree to which Indian communities actually control as oppose to manage their children's education, there is evidently progress in this area. Although Indian Affairs has officially accepted the position of Indian control of Indian Education, there remains some doubt as to their commitment to implementation of the policy. Legislative changes are necessary to allow for complete Indian control of education.

The Indian Nations which signed treaties with the Crown or with Canada, have never given up their right to govern themselves as they see fit. Part of this inherent right to self-government is the management and operation of their own education system. The ability to manage their own children's education is an indication of a self governing people (Barman, 1987, p. 29; Brizinski, 1989, p. 238).

# CHAPTER V

# LEGISLATION PERTAINING TO INDIAN EDUCATION

In this chapter I examine the various legislation and policies which the provincial governments and some First Nation governments have developed regarding the interaction between First Nation schools and the provincial departments of education. For two reasons the information presented will be primarily from provincial government policy documents and legislation. First, few of the various First Nation organizations, whether they be individual First Nations, Tribal Councils, or province wide Indian organizations, have developed clear policies concerning the relationship between First Nation schools and the province. Second, where such policies do exist, the province wide Indian organizations are in a difficult position. These organizations exist in an advisory capacity and they do not have the authority to dictate to their member First Nations educational or other policy. Therefore, those agreements and documentation they have, they are somewhat reluctant to share for fear of being seen as an administrative rather than advisory body.

Since First Nations are operating their own schools and using provincial curricular materials, there is a need to establish relationships with provincial educational authorities. One of the ways organizations establish relationships is by legislation or policy developed by either group permitting such a relationship to be developed. Legislation is usually created by elected governing bodies and makes possible the development of policy which will enable the directions established in legislation to become operational. However, there are many cases where policy has come first and, as a result, governments have been forced to establish legislation to keep up with policy changes. In the relationship between First Nation schools and the departments of education, it is often difficult to tell which has come first. Nonetheless, I have, rather arbitrarily, divided the following sections into discussions of legislation and policy implying that there is a clear distinction.

The remainder of the chapter will consist of an examination of legislation and policy in Alberta, Saskatchewan, Manitoba and some examples from the province wide Indian organizations.

## Alberta Legislation and Policy

The School Act of the Province of Alberta (Government of Alberta, 1990) makes very few references to Indians or First Nations. In view of the fact that education for Indians is a federal responsibility according to the Canadian constitution, this is not surprising. However in view of the fact that in the 93/94 school year 6378 on-reserve Indian students were attending provincial schools in Alberta (Native Education Project, 1994), there would be some expectation that more recognition of this fact would appear in the legislation.

### School Act and Regulations

The section of the School Act entitled "Operation and Management" mandates the processes of making educational agreements with other organizations. In Section 46, subsection (2), parts "b" and "c" it is stated:

> A board may, with the prior approval of the Minister, . . .
> (b) enter into an agreement with the Government of Canada or any agency of the Government of Canada with respect to the education of . . .
> (i) Indian children
> (c) enter into an agreement with a council of a band as defined in the Indian Act (Canada) with respect to the education of Indian children.
> (Government of Alberta, 1990, p. 30).

It is important to note that Boards of Education in Alberta have the authority under the Act to enter into tuition or other agreements directly with First Nations. This means that the old system of tripartite agreements between the school jurisdiction, a First Nation and Indian Affairs is no longer necessary. This implies that the Alberta government is taking into consideration the authority and jurisdiction that First Nations have to negotiate and sign their own tuition agreements as equal partners with a provincial School Board.

Section (46) also gives direction regarding representation on Boards where a tuition agreement is signed:

> (3) If an agreement under subsection (2)(b), (c), or (d) provides for the appointment of 1 or more individuals resident in the unorganized territory to the boards, those individuals are deemed on their appointment to be members of the board and to have all the rights and obligations of trustees as set out in the agreement. (Government of Alberta, 1990, p. 31)

The above section gives First Nations the opportunity to make a provision in their tuition agreement which will allow representation by them on the board of education that oversees the educational program for their children. This is an important provision since it recognizes the responsibility of Indian parents for their children's education and provides for their participation on a provincial board of education. It is important to note that this reference does not mandate Indian representation on provincial boards; it only allows such representation if both parties agree.

There are a few other references in the School Act which may be interpreted to affect Indian education. For example Section 6 (p. 10) allows for instruction in a language other than English and the School Act Regulations (Government of Alberta, 1989) specify that this is indeed allowed as long as English is taught for a minimum of 35% of the time (p. 19).

## Policy Directions

In 1983, largely as a result of the Keegstra affair, the government of Alberta established a commission to report on tolerance and understanding in Alberta. The Committee on Tolerance and Understanding: Final Report was submitted in 1984 (Government of Alberta, 1984). The report is often referred to as the Ghitter report after its chairperson, Ron Ghitter. The Ghitter report established the need for a thorough review of Native education in Alberta schools. The report said:

> One need only examine the tragic circumstances involving Native youth, which point to unacceptable dropout rates, the dearth of Native students graduating from colleges and universities, suicides, a disproportionate number of Native youth in correctional institutions, age/grade retardation and unacceptable levels of poverty and alcoholism, to conclude that our Native youth are being treated as second-class citizens by our educational system. (p. 116)

As a result of the Ghitter report, Alberta Education established a committee to develop a policy on Indian education in the province. As a result, the Native Education Project was established as a branch of Alberta Education, to begin the process of curriculum development and to develop a dialogue with Alberta's Native people.

### Native Education Project

The policy was developed through prolonged and detailed discussion with the various Native groups in Alberta including registered Indians. Meetings were held with 179 interest groups across the province to determine what Native people would like to see for their children in provincial schools (Alberta Education, 1987). The resulting paper Native Education in Alberta: Alberta Native People's Views on Native Education, focused on issues involving Indian students attending provincial schools rather than on-reserve schools, but many of the recommendations and action statements in the policy do apply to First Nation schools. This is so even though the provincial government does not have any jurisdiction on reserves, and this fact was recognized in the policy statement: "This policy applies only to Provincial schools and not to Band operated or Federally administered schools located on Indian reserves" (Alberta Education, 1987b, p. 2). Nonetheless, the policy has effect on reserves because of the relationships which it prescribes between the province and Native people generally and specifically between the province and First Nations.

Much of the policy dealt with curriculum issues and there were a variety of statements included dealing with this topic:

> Alberta Education recognizes that Native histories, cultures, and lifestyles must be included in the studies taken by Alberta students, so that they can benefit from the values and lifestyles of Native cultures. (p. 3)
>
> Include and highlight aspects of Native heritage, cultures, and lifestyles in the studies that are to be taken by students in Alberta. (p. 5)
>
> Continue to work with Native people and school boards to develop classroom materials that will complement subjects taken by students, and will encourage schools to use them as basic and recommended learning resources. (p. 5)
>
> Assist school boards and Native people to develop programs for the teaching of Native languages. (p. 5)

The above statements are important because they indicate that learning materials or curricula that are developed by Alberta Education and the Native Education Project are not to be used only for Native students. Rather the policy encourages the use of these materials for all students in Alberta with the objective of providing all students with a more favourable and positive perspective of Native people.

The policy also addressed some of the jurisdictional concerns with which this study is concerned. There are a variety of policy statements which directly affect the relationship between Alberta Education and First Nation schools:

> Where resources exist, provide services for evaluating schools, educational programs, and teachers for permanent certification to Band-operated schools when they request such services through a Band Council resolution. (p. 7)

> Encourage school boards to negotiate the terms of tuition agreements with Indian Band Councils. (p. 7).
>
> Explore the possibility of Indian Band representation on school boards. (p. 8).

The tuition agreement recommendation as well as the representation on boards were later included in amendments to the School Act of the province. Until the recent budget cut-backs the recommendation to provide service had also been implemented.

The policy was tabled in the provincial legislature (Government of Alberta, 1987) by the Minister of Education of the time and was adopted by the Alberta Legislature. This is important because it means that the policy is not merely a policy of the Department of Education, but is a policy of the Government of Alberta.

To a great extent the policy recommendations contained in the Native Education Policy were derived from an earlier policy statement of the Native Affairs branch (Government of Alberta, 1978). That policy directive began with a statement of how the government of Alberta would deal with Treaty Indians:

> The Province of Alberta will make available provincial government services and programs to recognized Treaty Indians and Indian Bands in Alberta using the same criteria we do with other Alberta residents and municipal districts. (p. 1)

When developing the Native Education Policy, this 1978 statement was used as a model. This direction remained in place until 1993 when government priorities changed in accordance with changing economic circumstances.

Recent Changes

Recent economic conditions in Alberta and the resulting re-evaluation of many government programs, including education, has resulted in some changes in the attitude taken by Alberta Education to First Nation schools. Many of the services that were previously provided free of charge to First Nation schools now are available only on a cost recovery basis. In addition, the closure of most of the regional offices of education has meant that First Nations who used to receive services from these offices can no longer do so.

The Native Education Project is still in existence but its staff has been reduced or reassigned. In addition, its power to make grants specific to enhancement of Indian content or learning opportunities has been severely restricted. In 1987, the Native Education Project established a system of giving school board grants for specific programs (Alberta Education, 1987c). However, these program grants are now included in the block funding provided to school divisions or boards and there are no guidelines as to how the money should be used. The Native Education Project has been relegated to a monitoring rather than a supervisory role.

Alberta Education has extended the power to issue recommendations for permanent Alberta teaching certificates to First Nation education officials providing those officials meet the provincial requirements for a Superintendent of Education. Increasingly, First

Nations have employed such individuals and they are now able to evaluate and recommend teachers for certification instead of having this task performed by regional office or other Alberta Education staff. Some First Nation schools have objected to this practice since they do not see why they should be required to provide information for teacher certification to a body of which they are not a part and which does not have clear jurisdictional control over their schools.

The withdrawal or disengagement by Alberta Education from the First Nation schools may have a positive impact. First Nations schools and administrators will be compelled to develop programming that is in tune with the needs and wishes of their community rather than those of Alberta Education. It will also mean that the separation between provincial schools and First Nations schools will become wider and the search for a means of having the two systems work separately but in concert will become even more imperative.

## Saskatchewan Legislation and Policy

In Saskatchewan, the Education Act and its Regulations form the basis of how the province manages education for its citizens. Since education of Indians is a federal responsibility under the Canadian Constitution, there is very little mention of Indians. However, since a large, and growing, percentage of students in provincial schools are Native, there presumably must be some arrangements made to meet the needs of these students.

## Education Act and Regulations

Most of the limited references to Indians which do occur in the Education Act, refer to the situation where there are tuition agreements between a First Nation and a provincial school board for the provision of educational services. Even then the references are very general and are not necessarily specific to First Nations.

Section 96 (1) of the Education Act (Government of Saskatchewan, 1990) does not make specific reference to First Nations but does state policy regarding entering into agreements and setting up joint boards with the Government of Canada. Since monies for Indian education originates with the federal government, this section of the Act could be interpreted as applicable to First Nations

Sections 144 (3) and 172 describe conditions for providing educational services to students outside the school jurisdiction boundary and allow for the charging of tuition fees for such students. These sections allow the provincial school boards to require payment of tuition that reflects not only the costs of basic instruction but also any special education services, regular transportation, extra-curricular transportation, etc. These are the sections which are used when provincial school boards negotiate tuition agreements with First Nation governments.

Section 173(2) specifically excludes Indian reserves from the organized territory of a school division even if the reserve lands are within the boundaries of the school division. This means that students from the reserve who wish to attend the provincial schools must pay tuition fees as per sections 144 and 172 and that a tuition agreement must be in place between the provincial school board and the First Nation government.

Section 92(b) gives individual school boards the right to enter into tuition agreements with a variety of agencies. Listed are other school boards, which probably means other provincial school boards as opposed to First Nation school boards; and sub section (vi) "with the Government of Canada or an agency thereof" (p. 32) which would include First Nation governments. It is interesting to note that despite the pervasiveness of tuition agreements between First Nations and provincial school boards, there is nothing in the Education Act of the province which specifically mentions such agreements and specifically mentions First Nations as active and participating members in such relationships.

Complementing the Education Act are a series of regulations (Government of Saskatchewan, 1986) which give specific information about how the provisions of the Act are to be actualized. Regarding tuition fees, section 20 of the Regulations defines exactly what may be included in such fees. Section 20(7) also describes a process for estimating or negotiating the exact cost of certain services which the two parties to an agreement may wish to include in their tuition agreement.

Another significant section of the Regulations is Part V dealing with Accreditation. Sections 30 to 38, in their various parts, discuss accreditation of an independent school in the province. In order to be eligible for accreditation the regulations state that an independent school must follow the provincial curriculum policy, agree to be supervised by the department or by an individual approved by the department, hire only certified teachers, follow the goals of education for the province, and a variety of other conditions. The information provided by interviewees and summarized in subsequent chapters indicates that the department of education is using these regulations to guide its relationships with First Nations schools, even though such schools are not "independent schools" as defined in the regulations.

## Policy Directions

Even though education for First Nations peoples is a federal responsibility under the Treaties and the Constitution Act, the province has established some policies in this area. They have been forced to do so because many Native students attend provincial schools. Historically, Native students' documented success at these schools has left much to be desired and so the provincial government has attempted to develop policies which will encourage the involvement of Native people and will ensure that the educational experiences provided to Native students will be more positive.

### Indian and Metis Education Policy

In 1989 the Department of Education, Manpower and Training developed a policy statement regarding Indian and Metis Education in the province. The policy statement was developed through a series of meetings of an advisory committee which had representation from a variety of Native groups in the province as well as provincial school boards. This policy statement referred primarily to the situation of Indian or Metis students attending provincial schools and the recommendations and policies were primarily focused on increasing the involvement of Native people in the operation of these schools. The relationship between the province and the First Nation schools is mentioned but is a relatively minor part of the policy document.

The policy statement sets out four primary principles which are important for the development of a good working relationship between the province and the various Native publics (Saskatchewan Education 1989, p. 5). These are: (a) a commitment to provide the opportunity for the involvement of Indian and Metis peoples at all levels of the education system, (b) recognition and accommodation of the different learning styles, language and world-view which Indian and Metis students bring with them to school, (c) co-operation and consultation between all federal, provincial, local, and Indian and Metis authorities to meet the needs of Indian and Metis students, and (d) a recognition that the most successful efforts will be those that are focused at the local level.

According to Saskatchewan Education, the above four principles are to be considered the basis for improving the education of Indian and Metis students and improving the communication processes between themselves and Indian and Metis peoples. The statements do not directly include First Nation schools or administrations and this should not be surprising since the policy statements were meant to apply to those provincial schools where there is a high concentration of Native students. Nonetheless, these policy principles are being applied to the day-to-day functional relationship between the provincial department of education and the First Nation schools.

The 1989 policy document does have a small section dealing directly with its relationships with First Nation schools (p. 9). For example, it allows for the piloting of provincial curricula in First Nation schools providing the First Nation or the federal government pay all associated costs. It also allows for the registration of high school students attending First Nation schools so that these students can obtain matriculation certificates from the province. There is also a commitment to make available to First Nation schools copies of new curriculum guides and support materials, and to send all information items to First Nation Directors of Education.

Although this policy document commits the Indian and Metis Education Branch of Saskatchewan Education to "maintain contact with and work with Band education authorities and Indian and Northern Affairs Canada" (p. 10), it is also careful to recognize the treaty and constitutional responsibility of the federal government for education. A previous section of the policy states "Nothing in the policy or program initiatives of Saskatchewan Education assumes or diminishes in any way the legal and historical obligations the Government of Canada has to Aboriginal peoples" (p. 6).

The final commitment worth noting is the pledge to ensure that new curricula and materials positively reflect Indian, Metis and Inuit peoples and to ensure that curricula and materials will reflect the legal, cultural, historical, social, economic, and regional diversity of Indian, Metis and Inuit peoples (p. 12). To this end a curriculum review committee was established to review existing and new curricula for bias and for inaccuracy.

### Indian and Metis Education Advisory Committee

In 1989 a committee was established to examine some of the issues surrounding Indian and Metis education in Saskatchewan. This committee, otherwise known as IMEAC has been active in developing, evaluating and implementing curricula that have, as an integral part, Indian and Metis content. IMEAC has also been involved in establishing a dialogue between Saskatchewan Education and the various Indian and Metis groups in the province. This includes representatives from the First Nation schools as well as the province wide Indian organization; the Federation of Saskatchewan Indian Nations.

The document Partners in Action (Saskatchewan Education, 1991) outlines a plan of action for IMEAC and it touches on a variety of issues involving Indian and Metis education. The focus of this document is primarily curricular but there is also a major section which discusses jurisdictional issues without actually using that terminology. The Action Plan makes sixteen recommendations (Saskatchewan Education, 1991, pp. 18-26), many of which cannot be successfully concluded without the participation of the First Nations and the First Nation organizations.

In 1993 the Department of Education wrote a response to the IMEAC action plan (Saskatchewan Education, 1993). All of the recommendations were accepted and the provincial government committed itself to continue to devote the resources necessary to make the recommendations a reality. One of these commitments was to establish an Indian and Metis Curriculum Development Team to ensure that any new curricula developed by the province would have Indian and Metis content as an integral part of the curriculum. This is in keeping with the Indian and Metis Education policy and the policy statements outlined in a statement on curriculum review and renovation in Saskatchewan (Saskatchewan Education, 1984). However, the response goes on to say:

> Saskatchewan Education recognizes the mandate of the Saskatchewan Indian Cultural Centre in the areas of Indian languages and curriculum materials development for Indian band controlled schools. (Saskatchewan Education, 1993, p. 3)

As will be described in later chapters, this relationship is not always satisfactory to the individual First Nation schools and this has become a source of irritation in the relationship between Saskatchewan Education and the First Nation schools.

In terms of the jurisdictional issues the response from the Department of Education makes several concrete promises which are of interest to this study. It is worthwhile to quote, at some length from the document:

> It is further recognized that the province is committed to establishing partnerships with Indian and Metis peoples through the co-management and co-determination of projects. Provincial bilateral agreements are currently under discussion with the Federation of Saskatchewan Indian Nations (FSIN) and the Metis Society of Saskatchewan (MSS). Developments in Indian

> and Metis education must occur within this broad policy framework.
>
> Bilateral agreements specific to education, as negotiated with the FSIN and MSS within the context of the provincial agreements, will form the basis for strengthened partnerships. Saskatchewan Education will work with Indian and Metis educational authorities as equal partners in education. (Saskatchewan Education, 1993, p. 1)

Saskatchewan Education appears to be committed to working closely with the aboriginal groups in the province. In particular, the statement that they will work with the Indian and Metis education authorities as equal partners is an important recognition of the inherent right of First Nations people to jurisdiction over the education of their children.

The response paper goes on:

> Discussions are underway with the Federation of Saskatchewan Indian Nations (FSIN) to sign a bilateral agreement on education. This will provide a mechanism to address, discuss, and resolve issues related to Indian education in co-operation with the FSIN's Education Commission.
>
> Saskatchewan Education will facilitate the definition of policy issues and their resolution as they apply to relationships between the Indian band education system and the provincial education system. Work in this area has commenced through the establishment of internal partnership committees. (Saskatchewan Education, 1993, p. 8)

In these commitments, the department of education has possibly made the same error that it did in its commitment to leave curriculum development to the Cultural Centre. Many of the First Nations feel that the provincial Department of Education should be addressing concerns directly with them rather than with the FSIN. In subsequent chapters there will be a more detailed discussion of this issue.

Despite the fact that some controversy has been generated around the commitments made in the response paper, it is obvious that the Department of Education is serious in its wish to build a working relationship between itself and the aboriginal community in the province and in particular with the First Nation schools. Since the 1993 statement, there has been considerable progress made in offering the services of the Department of Education to the First Nation schools. While there is still no formal recognition in legislation of the existence of these schools or any obligation by the department to provide services, there is a working relationship that has proved to be mutually beneficial and which has paved the way for further development of the relationship in a positive manner. This positive working relationship may provide direction for the eventual development of legislation.

One might be inclined to believe that these developments have been made as a result of an enlightened and altruistic attitude displayed by Saskatchewan Education and by the aboriginal organizations. However, it is more likely that the province has examined the demographics of the aboriginal population in the province and decided that some accommodations had to be made. For example, the birthrate among aboriginals is double the average for the rest of Saskatchewan and by the year 2000, thirty-four percent of all the births in the province will be aboriginal. Also by the year 2000, twenty-five percent of all students in the province will be of aboriginal ancestry or approximately 48,100 students (Saskatchewan Education 1991, pp. 5-6). In light of these demographic trends, it is obvious that some accommodation has to be made with the Indian and Metis peoples to include them in the planning and operation of schooling for their children.

## Manitoba Legislation and Policy

The Province of Manitoba is underrepresented in this chapter because the officials of the Department of Education and Training refused to share their policy. This decision was taken because they are currently re-examining their legislation and policies in an attempt to ensure that the provisions of the arrangement between the federal government and the Assembly of Manitoba Chiefs for self-government, do not interfere with provincial legislation. The information presented here then is as a result of research and documentation accumulated from library sources rather than directly from the Manitoba Department of Education and Training. Contact has been maintained with the Manitoba Department of Education and Training up until July 1995, but no information has been forthcoming.

Manitoba is slightly different than the other two provinces which have been examined. There is an Education Administration Act as well as a Public Schools Act and, of course, the regulations which go along with each of these. As in the other provinces there is little mention of Indians or Indian Schooling because these matters are assumed to be a federal responsibility.

### The Education Administration Act and Regulations

The Education Administration Act (Government of Manitoba, 1992a) outlines the powers of the Minister and establishes an advisory board to suggest legislative changes to the Minister as well as advise him/her on the application and interpretation of the Education Administration Act and the Public Schools Act (Government of Manitoba, 1992c). The only reference that possibly could be interpreted as applying to Indians in the Administration Act, is Section 3 subsection 1 part "h" which allows the Minister to "enter into agreements with any person, corporation, or government respecting any educational matter" (p. 3). This section could be interpreted as allowing the Minister to enter into tuition agreements with a First Nation. However, strict interpretation would argue against this point because a First Nation is not recognized as a corporate entity, nor are they recognized as governments unless they have a self-government agreement in place.

The regulations which accompany the Education Administration Act are similarly silent on Indian education matters. Regulation E10-162/92 part 6 number 25 (Government of Manitoba, 1992b), allows for the awarding of the Prince of Wales/Princess Anne award to a student in the provincial school system who is of Indian origin within the meaning of the Indian Act (Canada), or of Metis origin. The only other reference in these regulations is regarding certification of teachers which allows the Minister to issue a provisional special certificate to teachers of heritage languages. Since the First Nation languages are classified as heritage languages this provision presumably applies to those school divisions who operate Cree, Dene, Saulteux, Ojicree or other First Nations language classes in their schools and who wish to employ an instructor who may not necessarily be a certified teacher.

## The Public Schools Act and Regulations

The Public Schools Act covers a much broader range of topics than does similar legislation in either Saskatchewan or Manitoba. The powers of the Minister to create, modify or delete school divisions or school boundaries is clearly and extensively defined. One of the surprising elements in this description is that Indian reserves and other Government of Canada lands are automatically included in the various provincial school divisions unless specifically excluded by a request from the Chief and Council (Government of Manitoba, 1992c, p. 6-7) . Examples would be the Lord Selkirk School Division # 11, in which the Brokenhead Indian Reserve is included; and the Tiger Hills School Division No. 29, which contains the Swan Lake Indian Reserve and the Indian Gardens Indian Reserve (Government of Manitoba, 1992d, pp. 4-18). Not only are reserves included in school divisions, but such reserves constitute a ward of the school division (p. 8) and are eligible to have a member elected to the school division board. Section 23(2), (p. 18) makes it clear that election of trustees is to be according to the Manitoba Local Authorities Election Act. Therefore, a situation exists where the provincial legislation allows the provincial Minister of Education to call for the election of a provincial school board trustee, according to provincial government rules and procedures, on land belonging to a First Nation. The Act also contains references to notices of inclusion or exclusion and the exemption of Indian reserves from adjustment and transfer of assets or liabilities (p. 13).

The school acts or similar legislation in Saskatchewan and Alberta allow the provincial school boards to enter into tuition agreements with a First Nation or with the federal government. However, in Manitoba section 41(7) of the Public Schools Act (1992c) states that:

> Where an agreement has been signed between the Government of Canada and the province respecting the attendance of Indian pupils in public schools, the Lieutenant Governor in Council shall, by order in council, annually set the tuition fee which shall be paid by the province to a school division or school district in respect of each Indian child enrolled in a public school therein. (p. 35)

This section is a reflection of the fact that there is a comprehensive tuition agreement in place between the federal government and the province regarding tuition for Indians who attend provincial schools. This province wide agreement was negotiated between the two levels of government and the First Nations were not a part of its development. Recently many First Nations have either decided to operate their own schools or, if tuition agreements are still necessary, they want to be full partners in the negotiations and signing of any such agreements. The Public Schools Act does reflect this later in Section 48 which describes the powers of school boards, subsection 1 part "q" (p. 42) which allows school boards to enter into tuition agreements with a number of agencies, including the Government of Canada or a First Nation.

The portion of the Public Schools Act which deals with funding states that the definition of eligible enrollment

> Does not include Indian pupils enrolled in the school division and in respect of whose education an Indian Band or the government of Canada will be required to make contributions to the school division in that year. (p. 108)

This statement specifically mentions Indian students for whom tuition agreements exist. However, as was noted earlier there are some reserves which are included as a part of a school division and, therefore, those students would be eligible for provincial funding. As in the case of the election of trustees from wards composed of Indian reserves, this is another example of provincial legislation being applied on Indian reserves without the knowledge or consent of Indian governments.

Although some provinces tend to treat Indian schools under the same regulations as private schools, there is no funding attached to such treatment. In Manitoba, the legislation goes one step further and states that Indian pupils are specifically excluded from funding if they attend a provincially recognized private school (Government of Manitoba, The Public Schools Act Regulations, 150/90).

In the regulations, there is one final mention of Indian students. As has been stated elsewhere, since 1972 most First Nations have opted to operate their own schools on reserve. The motivation has often been that their students are not receiving appropriate education in the provincial school system or sometimes even face discrimination. Part 8 of the Regulations (p. 22) gives additional provincial funding to school divisions who have lost revenue due to First Nations removing their students from the provincial schools. The implication would seem to be that if provincial school divisions do a poor enough job meeting the needs of aboriginal students and those students are, as a result, pulled out of the schools, the provincial Department of Education and Training will reward those schools systems.

## Policy Directions

The Public Schools Act Regulations make allowance for supplementary funding to school divisions who have a high number of students for whom English is a second language. The funding is extended to those schools who have a high Native population although if the students are attending as a result of a tuition agreement with a First Nation or with the federal government, then they are not eligible for this particular funding. Presumably the regulation is intended to compensate for poor English skills and thereby prevent learning difficulties later in a student's school career. However, by specifically excluding students from Indian reserves, a large portion of the supposed target audience is missed.

The Department of Education and Training of the Province of Manitoba sponsors a large number of special projects in its schools. The January 7, 1994 (Government of Manitoba) review of these projects includes fifteen individual projects in four school divisions which are attempting to integrate aboriginal content into the curriculum and instructional practices. The goal of these programs is to present the aboriginal cultures in a more positive and accurate light and to make the curriculum more relevant to Native students, and to educate non-natives about aboriginal culture.

Little information has been presented regarding the situation in Manitoba because the relationship between Manitoba and Native people in the province is being redefined. The self-government agreement signed between the federal government and the Assembly of Manitoba Chiefs in 1994 is still in the implementation stage. The government of Manitoba, including the Department of Education and Training, is currently in the process of negotiating and discussing with Native people in the province, what relationships should exist. Until that process is concluded there is little concrete policy or legislation which can be examined.

## First Nation Legislation

Many individual First Nation governments have developed policy or even legislation of their own which govern how they relate to other outside governments. Although the passage of such legislation is an affirmation of the inherent right to self-government, it is sometimes difficult to get other agencies to recognize the legitimacy of First Nations legislation. The various province wide Indian organizations can play a role in this by advocating for the acceptance of First Nation legislation and by providing models and assistance, when requested, to those First Nations who wish to proceed.

### Saskatchewan

The Federation of Saskatchewan Indian Nations (FSIN) evolved from the Federation of Saskatchewan Indians which was developed in the 1940s and 50s as an advocacy group for the aboriginal peoples of

Saskatchewan. In 1982 the structure of the organization was changed so that instead of being a non-profit organization constituted according to provincial law, it became a legislative assembly constituted according to the wishes of the Chiefs of the First Nations of the province (FSIN Annual Report, 1995, pp. 5-6).

The FSIN has established an Education Commission as a part of its organization. It is managed by a sub-committee of the Chiefs and operates as an advocacy group for the First Nations. In recent times it has also attempted to provide some services and exercise some control over the operation of Indian education in the province. It is still to be seen whether the First Nations of the province are willing to allow the Education Commission to become an administrative body. There is further discussion on this point in subsequent chapters.

### Education Acts

However, one action which the Education Commission, in conjunction with the legislative assembly of Chiefs, has undertaken is to create a province wide Indian Education Act. This Education Act was passed as a piece of legislation of the Chiefs of Saskatchewan and assumes the inherent right to make laws regarding Indian education. It does not make reference to any piece of federal of provincial legislation but exists as the expressed will of the Indian leaders. At the same time the Education Commission also created drafts of Education Acts for the Tribal Councils as well as for individual First Nations which these bodies may use as guides for developing their own Indian Education Acts.

Since the FSIN is not an administrative group but rather an advocacy group, and since the FSIN recognizes the paramountcy of the individual First Nations, the implementation of the various Education Acts has been sporadic. Some of the Tribal Councils have passed an Education Act (Yorkton Tribal Council , 1994) but again since its member Nations are paramount, it cannot guarantee that every First Nation will pass such an Act.

At the First Nation level there are two difficulties which are interfering with the passing of such legislation. There are some First Nations who believe that education is a treaty right that was promised by the federal government and should be delivered by the federal government. Therefore thev feel that if they pass an Education Act then they will be endangering the education promise contained in treaty. Other First Nations see the passage of an Education Act as a legitimate exercise of legislative power of a self-governing people. They interpret the treaties to mean that the crown has a fiduciary responsibility to supply education but that the management of their children's education is a matter for them as self-governing peoples to decide.

Even if First Nations believe they have the right to pass such legislation there are few who are prepared to do so. With the exception of two Nations in Canada the remainder of the First Nations are under the control of the Indian Act, a piece of federal legislation. In order for a by-law or Act passed at the First Nation level to be recognized, it must follow a process described in the Indian Act whereby the Minister of Indian

Affairs has the authority to grant or to withhold recognition (Hawley, 1986, p. 51-54). Under these circumstances some First Nations are reluctant to proceed with an Education Act, which ultimately should be the expression of their inherent right to self-government, under a process that gives a Minister of the federal government the power to veto their decisions.

As a result of these two difficulties, education on First Nation Territories exists in a kind of vacuum without a clear legislative base. Many First Nations have opted to develop policy to govern the operation of their education systems rather than legislation. This has led to considerable confusion since the policy has no legislative basis and is, therefore, open to challenge. Most education authorities on First Nation territories take the precaution of having education policies approved by the local government, the Chief and Council. However, without legislation to support the policy, the possibility of precipitous and ill considered change exists.

### Memorandum of Understanding

Another, and perhaps more important undertaking of the Federation and the Education Commission is the development of a Memorandum of Understanding with the provincial department of education (FSIN, 1995b). Although the memorandum has not yet been signed it outlines a relationship of equality between Saskatchewan Education and the Federation Education Commission. It also states that they agree to recognize each other's jurisdiction and to negotiate as equals regarding concerns of mutual interest. The document applies to tuition agreements, teacher training, post-secondary institutions, teacher certification, curriculum development, and establishes a joint forum to deal with disputes.

Even though the document has not been signed it is being used as the basis for any discussions between the province and the Federation on educational matters.

### First Nations Education Authorities

The Federation is also in the process of establishing a First Nation Education Authorities organization. This group would function similarly to the provincial school trustees association and would discuss matters of common concern. It would also act as a clearing house for new curricula developments and be able to offer organizational assistance to new education authorities.

## Alberta

In Alberta there does not seem to be as strong a central Indian organization as exists in Saskatchewan. Instead the Tribal Councils which are organized along treaty lines exercise more influence. In addition there are some very powerful and independent First Nation governments which are working on defining their own relationship with the province.

### Curriculum

In keeping with the policy of the Native Education Project as described earlier in this chapter, a number of First Nations have entered into agreements with the Department of Education to produce Native content curricular materials. Sometimes these agreements are made through third parties and sometimes directly between a First Nation and the Native Education Project. More that 30 individual projects have been concluded since 1986 (Native Education Project, 1994b) many dealing with curricular materials for teaching Native languages, and many with cultural topics. All of the materials developed are available for use in all provincial schools as well as any First Nation schools which choose to use them. Frequently a commercial publisher is involved in the project to guide the developers and to ensure that the final product is of high quality. Also, in many cases, the First Nation developing the product retains the copyright to the material and is able to collect royalties and initiate sales in other provinces or jurisdictions.

### Memoranda of Understanding

In Alberta these memoranda of understanding cover a wide range of topics including education (Government of Alberta, 1993). They are signed between the provincial government and a particular Tribal Council or First Nation. As such they commit the government of Alberta to provide assorted services and to work co-operatively with Native people in the province. More importantly, they outline the intention of two equal parties to work constructively towards a new working relationship. A similar agreement has been signed between the government of Alberta and the Metis Nation of Alberta. Other First Nations have opted to sign a Declaration of Friendship with the provincial government which simply commits each side to work together to resolve issues of mutual interest.

## Manitoba

As was stated earlier, little information is available from Manitoba. The signing of the self-government accord in Manitoba which is to see the replacement of Indian Affairs with an administrative body led by the Assembly of Manitoba Chiefs means that there are many administrative details which have yet to be worked out. For instance, no one is yet sure what the relationships in education will be. Will First Nations have to deal with the Assembly education authorities, or will they be able to negotiate directly with Manitoba Education? Under what circumstances are these negotiations to be held and what services are to be negotiated? None of these question are yet answered and so the relationship between Manitoba Education and First Nations is very much on an ad hoc basis.

## Summary

In all three provinces examined there is an apparent lack of legislation or policy directly related to Indian education. What policy and legislation that does exist seems to be focused on two major issues. First a financial relationship is defined in which First Nations are involved in tuition agreements with a provincial school division. In most cases such tuition agreements can be made directly between the First Nation and the provincial board but in some cases tripartite agreements including Indian Affairs are still necessary.

The second major area of concentration is curricular. All of the provinces recognize that they have increasing numbers of Indian and

Metis students attending their schools and that the historic curricula have not met their needs. Taylor (1993) suggests that the inappropriateness of curricula is a major reason why some Indian children have difficulty in school:

> The difficulty for Aboriginal children is that they are unable to see a representation of themselves and their communities in these [curricular] materials. (p. 180)

Therefore, it is imperative that every effort should be made to involve Indian and Metis parents and other Native publics in co-operative projects designed to include more positive images of Native people. This is difficult because, as Taylor suggests, school is a frightening experience for some Indian parents:

> There is a profound discontinuity between the culture of the school and that of the home and community. . . . The discontinuity is compounded by the fact that many Aboriginal parents have not themselves had a school experience that remotely resembles what their children are experiencing. (p. 178)

Given that background in the residential schools and the lack of emphasis placed on education in those schools; the harsh living conditions; and the efforts to eradicate Indian culture and traditions, it is little wonder that some parents do not have a very good memory of school.

Regarding Indian education on reserves, the provinces quite correctly state that they have no jurisdiction. Yet, they are struggling to meet the wishes and demands of First Nations schools for some type of connection between the two. Subsequent chapters will discuss the extent of such relationships and the desires of many parties for change.

# CHAPTER VI

# CURRENT RELATIONSHIPS

Participants from the departments of education, from Tribal Councils, Indian organizations, and administrators from individual First Nations were asked to comment upon the present state of relationships between the provincial departments of education and the First Nation schools. It should not be surprising that these various administrators had different perspectives on the state of the relationship. However, all participants agreed that there was a relationship although they were sometimes unable to define its basis, or agree on the constitution of the relationship. Most of the participants indicated that some type of relationship was necessary:

> Besides helping you keep up with what's new, if you don't maintain a relationship you've got to keep up with what the curriculum is, all of the new decisions, the standards, new things on transportation, etc., all of it, new books, new kinds of expertise. Any kind of new phenomena that's introduced at the schools, all of that. Aside from the administrivia, like teacher certification, education standards for staff, anytime you need an expert in any particular area of education you can call on them.

Use of curriculum, curriculum modification to suit local needs, teacher certification, school program reviews, professional development, tuition agreements and second level services were some of the areas of contact or co-operation which the participants mentioned.

What became obvious from the remarks made by respondents is that there is no legislative base for interaction between the provincial departments of education and the First Nation schools. The relationship exists because of historical ties, because of personal relationships between administrators and because there is a recognition in the provinces that the Indian population is growing and, therefore, they must contemplate providing some services to First Nation schools.

The remainder of this chapter will consist of an examination of the current relationships which exist, illustrated by quotations from participant interviews. Policy, administrative services, curriculum, and tuition will be the areas of provincial/First Nation relationships examined.

## Policy and Practice

Each of the three provincial governments and their departments of education have different reasons for offering or not offering specific services to First Nation schools. What became apparent from the text of many of the interviews is that the decision to provide services or not is based not upon policy, but rather upon historic operating principles, personal relationships or monetary considerations. Even geographical location was suggested by one respondent as accounting for the varying degree of services offered to different First Nation organizations:

> The relationship which Bands have with provincial organizations seems often to be based on geographical location. Those Bands closer to an urban centre often have more provincial services delivered to them than those who are far from such a centre.

As was shown in Chapter V there is very little in any of the legislation of any of the three provinces examined that related specifically to Indian education and the relationship between the province and First Nation schools. However, in most provinces there is a tradition of co-operation which, if not reflected in policy, is manifested in practice. These service relationships are on-going and would be difficult to terminate if only because they have become accepted practice:

> I would think that there were certain working relationships that would be hard to reverse. . . . We have the support of the MLAs to do the direction that we're doing. We talk about how we help each other and work together collectively. We have the support, you know, we've been in discussion with the Minister of Education and the Associate Minister on some of the initiatives we want. And we have that support from them, there's not a written agreement in place but there is an unofficial department understanding that these things shall move ahead in this direction. But I have not seen anything in writing.

While admitting the lack of formal policy the attitude of many administrators is reflected below:

> Now informally, we have slowly established a fairly structured set of activities in which we involve the Band schools. We meet with all of the principals and Directors, we invite them in, twice a year.

This same administrator would like to see more formal relations negotiated between policy making bodies. However, he believes that there has been progress at the local level in defining a positive working relationship and that this model might be used by policy makers in their discussions:

> Yeah, I would like to see it as a higher profile. There is some negotiations going on around services and provision of service, bilateral/trilateral agreements being discussed by _____ Ed. with the Indian community. I don't know where that's at. It's

> strange that those discussions are going on and yet, out in the field, we seem to be achieving some of the objectives, just going on with everyday living.

Two of the three provinces examined have developed statements on Indian and Metis education designed to provide a framework for meeting the needs of Native students within their school systems. These policy documents include broad statements of direction or guidelines for a relationship and administrators at both the provincial and First Nation levels are using these as guidelines for framing their own particular relationship:

> We have a Native Education policy in this province that was developed in conjunction with, and I use the generic term, Native people, which includes Indians and the Metis. They [Treaty Indians] were not adverse, however, to including Indian people within the policy as long as it's at their request.

The province without an Indian and Metis education policy is currently developing one but meantime is willing to continue providing services to First Nations to the best of their ability:

> To the best of our abilities we'll try to accommodate Bands. . . . For whatever reason there's been that kind of unwritten agreement that those services will be provided to whatever extent we can. And that's always been operative. And even though Indian Affairs was sort of controlling the purse strings they never denied a Band's request for our services. It was always just an administrative thing that they would book the airplane tickets or whatever and do it that way. So in that sense there was always the support there that could go to the Bands.

The Indian and Metis education policy documents of two of the provinces relate to serving the needs of Native students who are attending provincial schools. However, in the absence of any other formal policy, they have been applied to relationships with First Nation schools as well. All of the three provinces examined recognize that the percentage of students of Native ancestry in their schools is increasing and they have to design policy and programs to meet their needs. However, how far the policy should be extended to First Nation schools is less clear. Provincial administrators do, however, recognize that the provision of some services is necessary:

> _____ Ed. recognizes that there are increasing numbers of Band controlled schools in the province and that there are increasing numbers of students attending them. We also recognize that these schools use provincial curriculum and need other services from the province. However, the decisions on how to develop a relationship between these schools and _____ Ed. are difficult because schools on reserves are funded differently; i.e. federally. Also, various Indian political organizations in the province hold different views regarding linkages to the province.

Provincial administrators are well aware of the difference between policy to meet the needs of Native students in their schools and the provision of services to First Nation schools. They would like to have clearer policy developed that would give them direction as to exactly what services are needed and could be provided:

> Well yeah, part of the problem is there are no written down guideline policy -- It would be nice to take out a book and look -- Whatever area it is you know -- there it's all nicely laid out. The only one we have laid out is a separate document, with regard to school evaluations and teacher certification.

Another provincial administrator commented:

> Well, I do believe that there's going to have to be some more, I think, formal arrangements made for providing the services, because it does take a lot of my time . . . So I'd like to think someday there could be a more formal arrangement where we would provide -- and that's all we do, we only provide a service to provincial schools too. We don't, as a Regional Office or a curriculum co-ordinator, we do not exert power. . . . we basically offer the school divisions the in-servicing for the new curriculum and help them establish those new curriculums in the schools, and help them get ready for them. I think that same service can be offered to Band schools and Band schools could expect the same service if there was agreements made at the provincial level. I think that would benefit both groups.

These provincial administrators desire a working relationship based upon policy that would respect the independence of First Nation schools:

> I think that there should be some statement fundamentally at least. That could then, over a period, translate into concrete decisions for assistance in relationships, [and] eventually would become part of the total system. Even if the Bands want to maintain whatever independence.

Many of the First Nation administrators recognize the efforts that provincial education authorities are making to include them in the service provided to all schools in the province:

> To me, this is actually a planned process whereby _____ Ed. is trying to address the issue of the increasing Native populations and also trying to address their needs in various ways, whether that be in the hiring of instructors or whether that be curriculum development and etc. I also see that the [school trustees organization] is also addressing the issue in a very similar fashion. Some interesting things are happening right now in our area as it relates to that.

Another administrator commented:

> Currently the _____ Ed. offers some services to the Band. We get locally developed curriculum approved by _____ Ed. Recently I have seen more flexibility from _____ Ed. as they have shown willingness to consider suggestions from First Nations and to be less demanding and more willing to negotiate. Before there seemed to be a more autocratic attitude but I see that changing. We continue to get curriculum updates and participate in pilot projects, and our Superintendent is able to recommend teachers for permanent certification.

The problem of jurisdiction interferes with the decision making of First Nation administrators regarding the worthiness of developing closer ties between the two systems. On the one hand there is a recognition of the need for some ties but, on the other hand, a recognition that closer formal ties means relinquishing some authority. The First Nation's authority is recognized by most provincial administrators:

> Yeah, and I respect Band schools' independence and that's why we, all of the services we provide, is simply a service. Whereas in the provincial system we put a lot of pressure to make sure that we have full participation. For Band schools, we offer it and say this service is available and if you wish to send your teachers in, you may.

The following comment by a First Nation administrator indicates the conflict that is apparent in many responses. Closer ties are desired but not at the expense of the desire of the First Nation to exercise jurisdiction over their own school system:

> We have been invited, because of the personalities, because we know the Director and he knows our operation, and so he says "yes, I know your operation so come in and join us"; however, a formal written policy stating that we will include independent schools, Band controlled schools, and any other schools that fit

> in this independent category, it hasn't been formalized. Do we want to be formalized?, I'm not quite sure. Do we want to be involved in -- under the big umbrella, then you get the [teachers' organization] and the trustees association and all of this. I'm not sure we want all that stuff. I don't know if we need a formal invitation. At this point I am happy with what we have. Because if we get into formalities then we're getting a little bit more into _____ Ed. A little bit more into their umbrella, and I don't think we need that. For the simple reason that the long term vision of First Nations is not to be under the umbrella of any one, but to have their own. Not to be under the umbrella of any provincial, white organization or Native organization. That power must be decentralized to the Band.

Some provincial politicians do not believe that the province should be involved in providing service to Indian schools since such schools are the responsibility of the federal government. However, even administrators in these provinces agree that there should be some services provided and these are sometimes provided covertly:

> So it's been pretty much up to the Director of the Branch particularly as administration has changed, to convince the Minister that we had to meet some of the needs of Band controlled schools. Otherwise there's this, the attitude is, well, let the Feds take care of that. So every time we've had a new Minister we've either just carried on and hoped it didn't come up; at least not before the Minister had been there long enough to begin to understand the relationships and so on. And so at that time we would respond to requests from the Band controlled schools. As well, we always made sure it was a smaller percentage of the load we would be carrying.

In some cases the provision of services from the provincial department of education to the First Nations is as a result of a special arrangement made between the province and the federal government:

> Since 1988 we've had an informal arrangement actually with Indian Affairs whereby we will supply teacher training, in-services, professional development kinds of things on reserve at the request of the Band, and Indian Affairs will cover our costs. We've got this cost recovery arrangement in place. . . . Prior to 1988 we did provide the services to Band schools without any cost recovery, and then at this point there was this agreement where Indian Affairs would cover our expenses.

Although policy is unclear or unwritten there are many kinds of services which are being provided from the provincial departments of education to First Nation schools. There is general agreement among the participants that this relationship is necessary and should be refined and defined. However, there is disagreement about how that could or should be accomplished.

### Administrative Services

There are a number of administrative services which First Nation schools presently receive from their respective provincial department of education. The number and type of such services varies from province to province, but in all of the provinces examined there are some services provided. First Nation administrators see the delivery of these services as essential to their operation but First Nation political organizations see the development of closer working relationships as a potential threat to the treaty responsibilities of the federal government. Provincial departments of education are similarly aware that they may be straying into territory that is the responsibility of the federal government but they see the need for providing services to all people of the province. Within this mix of policy interpretation, policy development and jurisdictional issues, the need to provide services is a major concern of all of the participants.

## Teacher Accreditation

In the three provinces there are procedures in place which allow First Nation administrators to recommend teachers for provincial certification. In all provinces, when a prospective teacher graduates from a recognized post-secondary institution, the Minister of Education grants a provisional teaching certificate. After one or two years successful teaching experience, the teacher must apply to have that provisional certificate made permanent. This requires the recommendation of a superintendent or director who has had the opportunity to evaluate the teacher's work and who meets the qualifications as described in the province's regulations.

First Nation schools also want to have their teachers certified and certainly the teachers want to have permanent certificates. However, since the First Nation schools operate as independent jurisdictions and since the teachers are not members of the provincial teachers' association, there is some confusion as to how this certification is to be accomplished. In one province, evaluation for certification used to be done by an organization set up within the education department who would actually go to reserve schools and certify teachers. With cut backs and downsizing, this is no longer possible. Therefore they have moved to a policy which operates on the principle that if a First Nation school employs a person who meets the qualifications for a Director of Education or a Superintendent of

Education, then they will allow that person to recommend a prospective teacher for permanent certification. This policy is summed up:

> All _____ Ed. is interested in is to ensure that the person is qualified that's doing the evaluations.

Most provinces have designated these qualified individuals to have signing authority for program and teacher certification:

> _____ Ed. will offer them signing authority providing their Directors of Education meet the qualifications as set out in the School Act. . . . We do not have any jurisdictional powers over them but their teachers have to be certified and their program plans somebody's got to approve them -- they follow provincial curriculum -- so we do work with them. We are not going to force signing authority on them. If they want it and they meet the qualifications we will let them have it.

Again there is a recognition that teachers in First Nation schools require the same services as teachers in the rest of the province. However, due to the jurisdictional issues and the lack of personnel in the provincial offices there is a need to turn over the responsibility for teacher certification to personnel from First Nation schools:

> One of the reasons that we are prepared to give them signing authority for program plans for accreditation of schools as well as certification of teachers -- permanent certification of teachers but they have to have a local teacher evaluation policy. We don't go in and evaluate teachers, we don't inspect teachers for permanent certification, those people who are going to be eligible to receive permanent certification. If we don't do it and nobody does it how are Bands going to retain those teachers? Every teacher likes to get permanent certification after two years.

Most of the reserve administrators are comfortable with this arrangement and feel that it is working relatively well:

> We would simply notify, say we're hiring a teacher from another province or hiring any teacher, we can phone the teacher certification branch and say we have a teacher with these qualifications. Where would he fit on a grid, and they would provide us that service the same as any school division, the same as I did when I was working at the provincial school jurisdiction. No questions asked.

Some reserve administrators have even been able to get special Ministerial permits for persons with special skills who they wish to employ as specialty teachers in their schools:

> Well, yes we have the same thing, teacher certification, obviously although we have also been able to go beyond that sometimes when the Band feels that a particular person is more appropriate. Then we have our fights with _____ Ed. but we have always managed to use Band governance as the sort of final thing -- that the Band can determine who will teach and _____ Ed. has actually been pretty good, we've developed a good relationship with them.

One last comment will illustrate the widely held opinion among First Nation school administrators that this process of teacher certification is working well:

> So I rounded up their documentation, their university credits, everything else, shipped it all down, and acting as a Director of Education, I said yes these people are qualified, the program is qualified, the curriculum is being delivered as provincial, so therefore my recommendation is that these people be certified. No problem.

However, there are some administrators who are not completely comfortable with the process. They feel that since the province and Indian

Affairs insist that teachers in First Nation schools have provincial teaching certificates then they should be prepared to either conduct the evaluations themselves or be prepared to contribute to the cost of completing such evaluations:

> They've really downsized, they used to help us with certifying our teachers, you know the provincial certification. They would come out and evaluate them and do all that work. But within the past year they have dropped that responsibility, expecting us to take it over. . . . We are fully qualified to do that, but we are fighting against the principle.

One respondent who is a First Nation administrator remembers the mistrust and suspicion which occurred as First Nation controlled schools were first set up. At that time Indian Affairs turned over the operation of these schools to First Nations with little or no preparation. Mistakes were made since the people operating the schools had no training or experience in running their own schools. As a result there were some situations where programs were less than satisfactory and students suffered because of administrative ignorance:

> Well let's get back to certification and accreditation of Band schools for a moment because there is a mistrust between the provincial system and what really happens in Band schools. . . . there are other systems and situations where there are absolute horror stories of uncertified people teaching, unaccredited courses, pretty loose curriculums. I don't want to mention any names, but I know of one case where a Band took over their schooling and for a period of about ten years, there wasn't a single mark, high school mark or anything else that was produced out of there. It was never recorded at INAC, it was never recorded at _____ Ed.

Despite some problems and some mistrust from both sides, the system of certifying teachers seems to be working very well. It may be an example of how two different systems may be able to work together to provide a much needed service and, at the same time, respect the jurisdiction of both.

## School Accreditation and Review

Another major concern that was expressed by many respondents was the issue of program and school accreditation and program reviews. Those First Nations who had recently taken over or were contemplating take over of their schools were concerned that there be some kind of objective evaluation of the school and program before they assumed the responsibility:

> When we first started the research into taking over the school we had established a bit of a relationship with _____ Ed. . . . we went down to _____ and asked _____ Ed. to do a school evaluation as part of a process of taking over the schools.

They wished to do this because of the mistrust regarding Indian Affairs' competence, seriousness, and commitment to quality education. They wished to be fully informed of the state of the school in terms of program and curriculum and believed that they would receive a fairer assessment from a provincial organization than they would have received from INAC. A provincial administrator said:

> Most Bands like _____ Ed. in terms of accessing consultative and evaluative services. Example, when a Band is taking over their own school - taking it over from Indian Affairs- they'll invariably ask _____ Ed. to go in and evaluate the schools.

Some provincial administrators also operate under a policy whereby they will assist First Nation schools if asked:

> Personnel from _____ Ed. will participate in Band school evaluations if asked, but participation would be on a fee for service basis.

A First Nation administrator also indicated provincial willingness to conduct program reviews and program accreditation:

> At the invitation of the Band, the regional office staff are willing to come out and conduct program reviews. Our programs and curricula are also accredited by _____ Ed. The required forms are sent to the Band by _____ Ed., completed here, and returned to _____ Ed. with a copy sent to INAC.

Finally those schools which operate a high school program must have the program and staff certified by a recognized authority in terms of the compliance with provincial regulations. Most provincial departments of education have a policy similar to the one described below:

> We now of course recognize Band schools and their right to offer secondary level credits. . . . We do that by having the Band school identify a number of characteristics. They have to inform us that they are using the provincial curriculum, that they want to have secondary credits registered in, that they have to have qualified teachers and they send us the name of the teacher and the teacher's certificate that we check out. In the curriculum they must make sure that they have the number of prescribed hours and the kinds of recognized materials that we suggest, there must be a supervision plan in place for supervising the teachers of these secondary level credits, and they must have a person who meets the qualifications of a Director of Education under our system who we recognize as the person that we would deal with and who would be the person responsible for the supervision of the program. Once they meet those criteria, we will then send that information in to _____ Ed. and the students are then officially registered as a student who can receive secondary credits.

First Nations recognize the above requirements as necessary if they want their students to be able to take high school credits on reserve and receive marks registered with the provincial authorities. Some First Nation administrators see this process as an intrusion into First Nation jurisdiction but are forced to balance this consideration against the desirability of having their students attain provincial high school leaving certificates:

> Because we offer high school programs, our high school program has to be accredited and that leads to some problems when you're talking to the provincial people where you find that because the Band, as a matter of policy, and again self government, refuse to allow Superintendents or inspectors or whatever you call them from the province, to come in and do any validation or check on the program that's taking place in schools- they've said these are our schools, they're not provincial responsibility, you can't come in - then the province quite reasonably says well you can't say that, you know, if we can't come in and check, how can you expect us to say whatever you do is fine? So the way they've got around that is to say no teachers in _____ , working in a Band school can write their own grade 12 finals. We've got to do departmentals.

The provincial departments of education often take a position similar to the one stated below:

> For those Band schools which have a high school program, leaving certificates and program registration require an arrangement between the Band school and _____ Ed.

Current budget restraints at both the provincial and federal levels have meant that some First Nations have felt financially squeezed at having to continue to operate these school evaluations and program reviews. Indian Affairs, at one time, used to provide some dollars for such reviews. This means that the First Nation has to pay for these services from regular program dollars:

> They used to help us out but we got like a $10,000 a year from Indian Affairs for each school that we were evaluating, so their services were free at the time and we paid the other consultants we wanted involved in these evaluations.

### Second Level Services

One of the problems faced by First Nation schools is that, as independent schools, they do not have the network of services which other provincial school divisions have been able to establish. For example in the provincial schools, it is common to have access to curriculum advisors, a psychologist, a speech therapist, an audiologist, etc. These services are either provided directly by large school divisions or contracted on a shared services basis among a number of schools or divisions. In the First Nation system no such network exists. Students in these schools have many of the same needs as their provincial counterparts, so naturally those concerned with First Nation education would like to be able to access some of these services.

The approach taken is a reflection of the overall ad-hoc nature of provincial/First Nation relations. Some First Nation organizations have managed to develop service agreements with surrounding provincial organizations:

> We have also developed agreements for services with agencies under provincial jurisdiction. Such services include speech therapy, psychological testing, etc.

Some other organizations have a combination of contract services as well as arrangements with other First Nations for shared services:

> The specialist that diagnoses for FAS, [Fetal Alcohol Syndrome] but he actually comes to _____ and sets up in their clinic there. . . . And we do have access to a speech and language pathologist, that's a shared service with _____ and ourselves.

Other First Nations express frustration at the seeming inflexibility of provincial organizations and their seeming unwillingness to negotiate a shared services agreement:

> Try to get a physio, try to get an audiologist or a speech therapist on reserve, there's no way because they're provincial employees and they're not allowed to work on reserves. So the only way you can do it is by contracting them in their own time and the only time they're not working is in the summer.

Finally, one First Nation has included the provision of such services within its tuition agreement so that these services are provided to its students who are attending provincial schools:

> In the tuition agreements, all services including language, including liaison, including all the complementary, special education, low cost special education are all part of the regular tuition calculation. Any services that would be deemed regular high school or regular school programming are part of the tuition calculations.

Obviously as First Nation schools continue to develop they are going to need the services of specialists in order to offer appropriate school experiences. Where those services are to come from is still an unresolved issue. INAC has given some second level service monies to the Tribal Council level but, oddly, not one First Nation administrator mentioned that as a source of second level services.

## Provincial Organizations

Within each province, there are a number of professional or semi-professional organizations designed to facilitate communication between the various stakeholders involved in education. There are associations of provincial school trustees, meetings of directors or superintendents of education, province wide meetings of middle level provincial educational administrators, and teachers' associations which monitor their members and assist in curriculum and program modification. For the First Nations schools, equivalent organizations either do not exist or are in their infancy. Further, where the First Nation organizations do exist they may not be perceived to have the same authority or recognition given to the provincial organizations. Even if the Indian organizations are effective, there is still no clear connection between them and their provincial counterparts.

Therefore, in order to tap in to the newest curriculum changes and to be more fully aware of changes in provincial policy, a number of First Nations and First Nation educational administrators have opted to join the provincial organizations. This has not been a one way street with First Nations organizations seeking admission to provincial organizations:

> The three Bands, well three that I know for sure, use the services of the [teachers' association], legal and professional services because we have, again, a very strong working relationship. And we have used their legal services, all aspects of the [school trustees association], training, legal advice. The _____ has made presentation to three Bands and is prepared to take on associate, or member status as soon as the Bands wish to do so.

The departments of education and some of the other provincial organizations see including First Nations as a means for information distribution and for forming working relationships. One of the provincial authorities stated:

> We meet monthly with the Directors of Education of the provincial schools. All the Directors of Band schools are invited to those meetings, and we have a number of them that come. But more important, we send them our information. Any information that I send to the provincial school Directors, I send to the Band school Directors. So there's very little information that leaves this office that doesn't go to the Band schools. So they're very very aware of the activities that go on in this Region and within the province. That keeps them communicated and a number of Regions are doing that now. We've said, let's do that so that they have the information.

Most First Nation administrators expressed considerable satisfaction with the way in which the relationship between the provincial organizations and themselves were developing:

> We deal with the two regional offices, Region 1 and Region 5. And we have someone representing our Bands attending monthly meetings. . . Region 1 and Region 5, we attend monthly meetings with them. We receive all the support from Region 1 and Region 5 the same as any other teacher or school division would receive the support.

Another First Nation administrator stated:

> Now _____ Ed. generally speaking, I guess because of our relationship with them, through a number of years, really communicates with me. And really keeps me on top of what sort of things are happening at the provincial level. Now more and more directors are being invited to _____ Ed. Regional meetings once a month. On the list there's a group of about seven people -- whether they attend or not is another question. And

> further to that, twice a year we have meetings specific to Band schools in Region 6.

Some First Nation schools are deciding to become full fledged or associate members of provincial educational organizations. This has resulted in some controversy over jurisdictional issues but the First Nations involved believe that the information that they gain from these organizations outweigh any considerations of jurisdiction:

> [School trustees association] and the _____ Teacher's Federation are documents that I only started gathering a few months ago by making contact. They are going to invite us to their conferences, they're going to invite us to their Human Rights Equity commission meetings and stuff like that. So, in a certain way, those other agencies or institutions are really sending out signals to us, trying to draw us in and keep us aware of what's happening in the province and what's happening at the provincial level in terms of policies as they relate to Native education and education as a whole.

One First Nation in particular is heavily involved with as many provincial organizations as possible and sees this as a necessity in order to be kept informed:

> We belong to the various organizations like the School Trustees' Association. . . . And I belong to the superintendents' group and our principal belongs to the principals' group. Our accountants and managers belong to the management groups, all of that. [Teachers belong to an association] but they don't have the voting privileges, you know what I mean?. . . That's right, the teachers' association. And they get legal help too from the teachers' association when they need it.

Many of the First Nation administrators accept, as a matter of course, that they will be involved in provincial professional organizations as illustrated by the following statement:

> As the educational administrator of the Band I am also a member of the provincial school superintendents' association. In this way we are kept up to date with new developments in education in the province through regular memos and circulars. For professional development, we as superintendents, we belong to the superintendents' group here.

For most of the First Nation administrators talked with, involvement in provincial professional organizations does not conflict with the development of First Nations jurisdiction. They see membership as a way to receive information and to exchange ideas with colleagues. Despite this, any suggestion of a union or teachers' membership in union type organizations is rejected as an infringement on First Nation jurisdiction.

## Curriculum

The issue of curriculum content is one which every respondent mentioned in some way. Some respondents felt that provincial curricula were inadequate in meeting the needs of First Nation students:

> In some respects what the Native community wants is almost a compete change in how education is being done. For example, including Native history, Native culture in secondary education where it hasn't been before.

However, most felt that although there were major renovations needed, the provincial curricula could be used as a basis. Some First Nation administrators felt that it was necessary to mirror the provincial curricula in their schools:

> The _____ Nation wants to ensure that its students receive an education equal to or better than that provided in provincial schools. Therefore, we follow the provincial curriculum fairly closely. Our students take the grades 3, 6 and 9 achievement tests from the province and, when our school expands to include grade 12, the grade 12 students have to write the provincial exams.

Another First Nation administrator believes that although the standards of the provincial curriculum must be met, the basis for any curriculum has got to be what is good for students and if that means curriculum modification then that is what should be done:

> We follow the achievement tests that the province requires Grade Three, Six, Nine level. . . . We use the whole language method in reading, co-operative learning, we have quite an intense writing process, we bring creative writing people in all the time, role models, professional authors, Indians or people that talk about Indian issues, they come in and do week long workshops with our kids. . . . I guess our priority is the curriculum and what it is doing to our kids.

There is a conviction that First Nation parents want their students to achieve at the same or higher level as students in the provincial system. Therefore, even though the First Nations have taken over the operation of the school on reserve, there is still a demand for high standards. In the words of one respondent:

> So it's kind of funny, at the beginning the people, the reason for take over, the big things were things like identity, culture, language, beliefs, spirituality, that kind of stuff. Once we've taken over the parents are kind of hesitant now because they want to know if the school is going to be up to par on the academic standards. The Band has to become credible as an organization to their community and the community only has

> one standard and that's the provincial standard -- you have to measure against something. I think the parents want to make sure that what standard they get here will be equivalent.

One respondent summed up the situation in this way:

> As a result of this history, Indian people must assume the responsibility for the education of their children. This does not mean that the entire school system or curriculum must be reinvented. In many cases the Indian school system will want to retain the content of the provincial curriculum. Mathematics is a good example where the content would likely remain the same. However, even if the curriculum was to be substantially altered, it would be a decision which the individual First Nation would have to make. Transferability to provincial system is a consideration but not a deciding factor in making the choice to alter curriculum.

As has been stated elsewhere, the funding agreements signed between Indian Affairs and the First Nations contain a clause that states that the First Nation must follow the provincial curriculum. How this is to be accomplished is not clarified nor is how a First Nation, which wishes to modify curriculum to suit local needs, can proceed to do so under the authority of the province:

> First of all, according to the contribution agreement we have with INAC, it states that we must provide an education equal to or surpassing _____ Ed. So we are legally bound by our contribution agreement with INAC to provide -- now in saying that, what does that mean? Does that mean we must follow _____ provincial curriculum? Well if we have to provide an education equal to that; in my mind we must.

Further, even if First Nations schools are made aware of provincial curricula, how are their teachers in-serviced regarding the use of such curricula? In view of the lack of overall or even province wide policy regarding these matters, each First Nation or provincial government agency has had to work out their own solutions to these problems. This has meant that there is considerable variation province to province, region to region and First Nation to First Nation.

## Provincial Curricula and Local Variation

Most First Nations start with the provincial curricula as a base and then decide whether or not, and by how much, to vary it to meet the needs of their students. The debate about whether or not provincial curricula can meet the needs of Native students is on-going:

> Where you run into the differences is values, belief system, cultural differences, cultural traditions that want to be retained, continued, brought in as part of the educational process.

This philosophical difference in the approaches taken to curriculum between the provincial authorities and many First Nation educators is reflected in the following quote:

> Well, the other thing worth doing as well is that we're using the same materials. And we're all looking at them in terms of what kind of conflicting grounds are we giving to our children. We're not dealing with the fact that we're saying share, but the materials were using are saying win. There's just, the values conflict. And if we don't deal with that as teachers and as educators then we're creating even more confusion in our kids. And it's not necessarily the fact that you have to throw everything out. Teachers have to be educated to do that, spend that time with kids saying, well this is this culture. This is ours. Somewhere along the line kids have to realize the differences so they can mesh them. Rather then having them just meshed together and they're jumbled up and confused.

As independent school jurisdictions the First Nations schools are not necessarily bound to follow the provincial curriculum. However, if there is too great a deviation from the provincial curriculum then, when or if their students transfer to a provincial school, serious articulation problems may occur. Therefore, most First Nations make every effort to co-ordinate their curriculum adaptations with the provincial authorities:

> Presently, although the school operates independently, all of the programs used are approved by _____ Ed. There is a lot of curriculum adaptation to include the local traditions, culture, and beliefs to enhance the curriculum. In general teachers are encouraged to reflect a Native perspective in all of their teaching and are encouraged to incorporate this perspective into their curricula.

While recognizing the fact that their curriculum is not much different from the provinces there are still some variations or adaptations which First Nation administrators consider necessary. When asked what made his school different from the surrounding provincial schools one administrator answered:

> Not much except for maybe some of our curriculum. I think ours is perhaps looser in administration in terms of flexibility for staff needs, children's needs, community needs, etc. Because I think that the public schools are a little bit isolated compared to what ours are, from the community. We have some modifications in all of the programs I guess; but we have special programs in Native curriculum, language curriculum.

### Native Content

In an effort to more positively reflect the demographics of classrooms in the provincial systems and in an attempt to meet the needs of Native students, most provinces have decided to include Native content in their curricula. However, according to a provincial administrator, this has not always been successful:

> I think we have not done a good job of providing, and it's not from a lack of effort and desire, of good Indian content into a lot of our curriculum. We do have a mandate to provide, and we try very honestly to put Indian content into all of our curriculum. For two reasons, one is we do have a large growing urban Indian population that we feel that we need them to be able to better identify their own culture, but we also believe that other children of non-Indian status have to learn about Indian people. But there's a shortage of good material for teachers to use, about Indian people. That is our biggest difficulty. I don't blame the curriculum as much as the lack of good material.

There is currently some discussion about who is in the best position to design this Native content, but everyone agrees it must be done:

> On issues like curriculum for Native Studies, for example, well why are we developing that? It should be in the hands of the First Nations, the treaty people and the Metis people, they should be developing that because they're the ones with the expertise. We should be receiving it from them to put into our schools.

One point of view put forward by a Chief at a public meeting stated the extreme view that curriculum development dealing with Native content should not be included in provincial schools:

> A particular Chief stood right up and said 'I don't want you to prepare programs in your school as related to culture and related to language. All we want you to do is to prepare our students to go out into the real world and compete for jobs in the real world because these jobs are not going to be on the reservation'.

One of the provincial administrators said:

> I wish the [province wide Indian organization] and other Indian groups would work very very hard on the aspect of providing good material for schools, be they provincial schools or Band schools. To learn positive kinds of information about Indian people and their culture and to be able to better understand their historical culture

> and their aspirations today, would go along way, I think, to overcome some of the stereotypes and prejudices that are out there. But we need good materials and the Indian people, if they would help us develop that material, we might overcome a lot of this, what I call prejudice in our schools. There's just a lack of material.

The approach to the preparation of Indian oriented curriculum content and teaching materials varies from province to province from the situation where no financial assistance is given to the situation where contracts for the provision of curricular materials are signed between provincial organizations and First Nation schools.

In Alberta there is a concentrated effort to develop Native oriented curricular materials. Two main features of this program are that the materials are designed to be used by all schools in the province including First Nation and other provincial schools. The second major facet of the program is that some financial support is available to Native organizations who are working co-operatively with a provincial jurisdiction for curricular material development. This means that some provincial dollars are actually going to support curricular material development by First Nations organizations:

> Curriculum development is an area that we regard as very important. In the past we have received some support from _____ Ed. for the development of our language curriculum.

The curriculum and resource materials that are developed are made available for wide spread use:

> We have the curriculum the learning resources and in the _____ School Division, Cree 10, 20, and 30 learning resources package where curriculum can be taught with books and whatever. . . . This

> was approved as a provincial course. Anything that I do or we do here we try to do on a provincial basis. That 10, 20, and 30 material will be available throughout our school book branch once its done, for other Cree people and jurisdictions to purchase. So will the Blackfoot.

The whole area of curriculum development and who is best qualified to develop Native curriculum has become highly political:

> I think curriculum development is an area that people again are maintaining their own little fiefdoms. For _____ Ed. to hire people to develop aboriginal, Indian curriculum either in language or culture or in Social Studies is ludicrous. To my opinion, what they should be doing is they should be coming to the Bands and saying what are you doing? Let us give funding to you to do it -- OK we want a unit on Woods Cree, _____ can you do it?, want a unit on the Dene, _____ can you do it, whatever, but they're doing it all out of _____ . It's nuts. But they won't give us money, you get this wall, and those jurisdictional barriers have to be looked at.

In Saskatchewan the department of education is re-evaluating its practice of attempting to develop Native related curricula. It has signed a Memorandum of Understanding (MOU) with the province wide Indian organization, which includes an agreement that a body of that organization should be responsible for curriculum development for Native Studies. While that agreement does not presently imply any financial support from the provincial government to the Indian organization, such support is certainly hoped for:

> Since the Cultural Centre has a mandate through this MOU, we hope to get some of those provincial dollars over to the Cultural Centre so they can develop curriculum that will be beneficial to our students within the provincial system. It will be the community that basically develops a lot of the curriculum, they'll do the history

> and they'll develop the units and whatever they're going to do, that's up to them. The Cultural Centre will be more involved in the production part of it, that's what I believe.

Some of the province wide Indian organizations are claiming that only they or their institutions can develop Native curriculum and this has led to some problems:

> We have difficulty here, in my opinion, because we have the cultural centre which has by some design or whatever reasons, has determined that it is the only Native cultural content developer in the country. Yet at the same time, quite frankly, I haven't seen them develop a damn thing and I've been here for almost 6 years. I know that _____ Ed. have tried to tie in with them in terms of doing some co-operative development in specifically the languages and that has never shaken out really because for whatever reasons, both groups dug in their heels because of the various kingdoms that they have established and jurisdictions that they felt they had.

Manitoba has taken an approach different from the other two in that it still retains curriculum development as its prerogative but actively tries to solicit the participation and involvement of Indians in the curriculum development process:

> With curriculum development there was, as much as we could, there was an attempt to have aboriginal representation on committees. It wasn't always successful, and there are probably a number of reasons why. . . . We had real struggles. And people making commitments but, in some instances, not being able to carry through with them. So it has been a difficulty. So a lot of the onus fell on staff to give that input into curriculum development.

This provincial administrator went on to say:

> So there was an attempt to develop some materials that would support social studies, the language arts curriculum, to provide

> that kind of perspective. There's also been a, it's been a priority for, oh, the past 7 or 8 years at least within our provincial, our library, their acquisitions to keep the aboriginal collection current. So there's a fairly substantial collection of video-tapes and print materials. Again, with also trying to put in place a materials selection committee [to] look at things to ensure that most of them at least were acceptable.

The above examples of approaches to Native content and curriculum development have not been satisfactory to the Indian organizations. What has been considered so far is adding bits and pieces to existing curricula. Some Indian people see the need for more far reaching and fundamental efforts at redesigning curricula to reflect Indian values and world views:

> But there's also the concern about having the kind of materials that are basically relevant to the students. And what most of the community people see as what they want is students to start learning about themselves as Indian people which is of course practically nonexistent in the provincial curriculum. They want that but they also want high academic standards. And they're of the opinion you can do both in spite of what everyone else in the province is saying. . . . Well the reality of the situation of course is there's no curriculum out there. And also you have no, supposedly no people to develop it. And both in my opinion is, well basically what the community have said is so. If it's not out there well then we're going to have to develop it. And we can find the people to do it.

## Indian Languages and Culture

Many non-Indians are unaware of the diversity of languages which the Indian people of Canada speak and the corresponding diversity in cultural practices. Within the three provinces examined in this study there are at least six languages spoken. They are: Cree, Ojibway, Saulteaux, Dene, Dakota, and Blackfoot. As has been stated elsewhere one of the main objectives of the residential schools was to destroy the Indians' languages and culture. Now that the Indian people themselves are managing their children's schooling one of their major concerns is the preservation of the language of the community. Even provincial departments of education are concerned with what they would call "heritage languages" and are developing programs for the teaching of Indian languages in their schools. This is another reflection of the demographic fact that an increasing proportion of their students are of Native ancestry.

For the Indian administrators the following comment sums up their policy on language; "It's a given that language is taught in our schools". The degree to which that statement is true varies from school to school. Many of the schools with a high school program are using their language as a high school graduation requirement:

> The language is taught right from Kindergarten to Grade 12 here, up to Grade 9, as a regular subject. Then at the high school level they all have to take Blackfoot 10, it is mandatory for all the students, 20 and 30 is an option but they can use that as a 30. One of the requirements for graduation.

Language courses at the high school level are either being developed by individual First Nations and then made available to the provincial schools:

> There's been a locally developed course, got approval from the department last year for one year. So we're now doing the

> second round of implementation of the language, looking for Saulteaux 10, Saulteaux 20, and Saulteaux 30. All being developed through locally developed curriculum,

and:

> We've developed Cree language 10, 20 and 30 and they've now been accepted -- they've been accredited by the province and they're offered in provincial schools as well. But they have been developed by _____ Band,

In some cases the language curricula are being developed by provincial departments of education in conjunction with First Nations:

> Curriculum development is an area that we regard as very important. In the past we have received some support from _____ Ed. for the development of our language curriculum,

and:

> There is a Blackfoot 10, 20 & 30 language program that is fully accepted by the province for our kids to take credit for that, and if we would take on (its development) the copyright would be ours.

Curriculum development and modification are also used in many First Nation schools in order to incorporate language and culture into everyday teaching. In some cases the provincial departments of education have attempted to develop cultural programs as well. One Indian administrator summed up these kind of programs by suggesting that they have missed the point and consist largely of tokenism:

> It has mostly to do with Indian curriculum materials, Indian dances, beads and buckskin.

Some First Nation schools have struck out on their own to develop linguistic and cultural programs and have had more success than the departments of education:

> Other than the language, the culture, we've developed a series of Ganawa, an Elders series, we're publishing three books, with our Elders, they are fully bilingual Blackfoot and English, we've developed a teachers' guide with that. That will be a regular part of our school system and we are continuing with other curriculum projects.

This school has made several successful efforts to stay within the general outlines of the provincial curriculum but, at the same time, make modifications which are going to suit the needs of their students:

> I think that's the difference you see in our schools. That there is such a strong component of our language and our culture. Then we encourage our teachers to develop at least one unit throughout the year or more that's related to our culture somehow.

When Indian Affairs ran the schools on the reserves there was a half-hearted effort to teach the Native language. However, these efforts were not substantial enough to meet the needs of the local community:

> The federal schools had a Cree language instructor in each school but it was, you know, 20 minutes type of thing where the kids would leave their classroom and go to the Cree classroom and do their 20 minutes or half hour and then they'd come back. They'd go there maybe twice a week. Then when the Band took over, they put together a Cree language office, kind of research and curriculum development type of thing. I think the idea was for them to be developing language and cultural curriculum for the school.

### Language Immersion

The concept of immersion schools using Indian languages is one that a number of administrators discussed. There is presently no such school operating in the three provinces surveyed. However, this may become a reality in the future:

> If I recall from the education framework discussions that the Bands have been holding with Indian Affairs that one of the recommendations they've made is for bi-lingual at least. Bilingual instruction is the way they would see themselves going. I haven't seen any reporting recently. But I believe that's what they were talking about; which then has all kinds of implications for curriculum and materials development.

One of the main difficulties foreseen in the operation of an immersion program is the lack of materials written in the language being used:

> You mean total immersion, no, that's not underway, if we ever do, it will be a strand somewhere in the school system. But I don't think the whole system would ever go that way. There is too much pressure from parents that they want their kids to succeed this way. . . . I haven't really pushed it also, although I am a real advocate of that because I am a language trainer also. But if we ever run into it, I wouldn't open it unless we were about a year ahead of time for curriculum development. We have to have that, otherwise what do you use?

For another administrator the possibility of a dual stream program is a possibility:

> But the eventual goal is to move from that to eventually, at some point, having two systems where you would have a Cree immersion program and you would have an English program and parents could choose which way they wanted to have their kids.

## Professional Development

There is a belief that First Nation parents want the schools their children attend to offer the best program possible and set standards of excellence that are at least as high as the surrounding provincial school jurisdictions. In order to do that there is also general recognition of the need to keep teachers current and to assist them to apply new curricula, new instructional methodologies, and to help them incorporate Native content into the curriculum. The difficulty arises when administrators are asked how this is to be accomplished. Since teachers working in First Nation schools are not members of the provincial teachers' associations and since, for the most part, First Nation school boards are not a part of provincial trustees' associations, then how is information about new curricula and methodologies to be delivered to teachers in First Nation schools?

As with all of the other areas of the service relationships which have been discussed, there is great variation in the delivery of professional development based upon the willingness, or lack thereof, of administrators at both the provincial and First Nation level to negotiate arrangements which would include First Nation teachers.

Where numbers are few, most provincial administrators automatically include representatives from First Nation schools:

> So when I have a workshop in Accounting, any Band school that offers Grade 10 Accounting will have those teachers come to the same workshop as the provincial.

Similarly many First Nation administrators take it for granted that their curriculum people will be involved in professional development:

> Our curriculum person is involved with the networking at Region One. And when their curriculum people get together _____ 's on the mailing list, and is expected to participate in the networking sessions.

When there is a need to in-service many teachers in a new curriculum, one of the provincial administrators has taken a different tack:

> In English Language Arts, what we did was train a team of six teachers from Band schools, and they are doing the in-service for all of the Band schools in the area. In elementary Mathematics, we're moving to a slightly different model where we will train one or two people from each school and they will go back and teach the program themselves for a year, then we will bring them in for two days of leadership training and they will go back and be able to help other teachers in the school. Again we have invited all of the Band schools to participate in that project. I guess the bottom line is, the teachers in Band schools are receiving the same in-service on our new curriculum as they are in provincial schools in this Region.

By taking this approach this provincial administrator ensures that the needs of the First Nation teachers are met and that the provincial system does not incur any great costs. This same administrator is cautious to ensure that any in-servicing done with First Nation teachers is done without cost to the provincial system. While he recognizes the need for in-servicing he also recognizes the jurisdictional concerns:

> I guess the bottom line is the teachers in Band schools are receiving the same in-service on our new curriculum as they are in provincial schools in this Region. . . . We don't pick up any costs. The total costs for any workshops, the Band will send the teachers in, they pick up the sub pay, they pay travel, meals and accommodations. . . . It's appreciated by the Band schools. What I have found is the Band schools who are using the provincial programs are very anxious to have their teachers qualified and well trained and to provide the same quality of education as do provincial schools. I respect Band schools' independence and that's why we, all of the services we provide, is simply a service. Whereas in the provincial system we put a lot of pressure to make

> sure that we have full participation. For Band schools, we offer it and say this service is available and if you wish to send your teachers in, you may.

A comment from a First Nation administrator illustrates the problem of jurisdiction and how it can interfere with the smooth operation of a working relationship:

> I think they have facilitated the schools around here in terms of trying to tie provincial curriculum and in-servicing of teachers, piloting of various new curriculums, etc. in, and even in their high school review, they've tried to address and accommodate the Native issue. But the jurisdictional problem faces them and they're afraid of it.

In another province the approach to professional development and in-servicing has been more of the development of a partnership that is longer term than a one-shot in-service session. Particularly for schools and teachers which are seeking in-services on Native awareness, this longer term approach seems to be one which will better meet the needs of teachers and ensure that there are some positive attitude changes:

> What we began to do then is, when we were working with a school division who had called for requests say for Native Awareness or Native Studies, whatever, what we tried to do was enter into some planning with them. We were trying to get out of the one shot presentation. So we would meet with them and begin to plan to see if we could do a sequence or a series of days with them. And we would suggest that they invite the Bands in the area from there to come and assist in the planning and so on to become part of it because we also knew that the Band students, very often, would end up into this particular division for high school.

## Tuition

In many situations the First Nation does not have a school on reserve or the school they do have does not include high school. Therefore, if they want their students to complete their education, then they must make tuition agreements with the surrounding school division. Since the responsibility for Indian education is with the federal government, INAC must be involved as the funding agency which supplies the monies necessary for tuition. In the not too distant past, INAC would make tuition arrangements with surrounding provincial school divisions without involving the First Nation parents or authorities. In fact in Manitoba there was a comprehensive tuition agreement between the federal government and Manitoba for the education of Indian children in Manitoba. The Manitoba First Nations were not a part of this comprehensive tuition arrangement. However, as INAC has downsized and pulled away from direct management of Indian education, bilateral agreements have become more common:

> The push is for more bilateral agreements and basically the dissolving of INAC and absolving them of those kind of responsibilities.

More recently First Nations have said that they want to ensure that their children are getting the best education possible and they, therefore, want to be intimately involved in all aspects of the negotiation and monitoring of tuition agreements. In the past, there have been examples of a provincial school division taking advantage of the laxity of monitoring by the federal government and over estimating the number of students in need of special education services. They have then applied to Indian Affairs for additional special education dollars, even though not all were needed, and refused to make any accommodation in curriculum or materials to meet the needs of the Indian students attending the schools. Naturally when Indians began to take over the management of their children's education they wanted to monitor all aspects of it, including tuition agreements.

## Types of Agreements

As a result of the conditions listed above there are now a variety of styles of tuition agreements in place and a number of potential players. The players are the First Nations themselves, the provincial school divisions, INAC and the Tribal Councils. As was discussed in Chapter IV the legislation of each of the provinces examined allows for First Nation to provincial school division tuition agreements. In fact these types of agreements are preferred by officials of the departments of education and to First Nation officials. However, there are some school divisions who would prefer to have the security of having the funding agency as a signatory to the agreement as well. Therefore, there are some agreements which are trilateral between the First Nation, the provincial school division and INAC. As one Tribal Council administrator stated:

> Throughout the province, it is my understanding that there are a few trilateral agreements whereby INAC is a signatory. So that leaves another 14 that have provincial agreements. . . . Some of them have three party agreements, the department and themselves and the province.

Most First Nations are attempting to move away from this arrangement and have insisted that tuition agreements be between themselves and the school division:

> But for a while the public system was trying to deal directly with the Department, we just told them hands off, you deal with us directly, we'll go to the Department if we want to consider anything different, so they cut that out. But I imagine they'll keep trying that if they think they can get away with it.

Even representatives of the provincial education departments are encouraging bilateral agreements:

> Tuition agreements are signed, it used to be, between Indian Affairs and the school jurisdiction and recently as they run their own schools, Indian Affairs has taken a lessening role in tuition agreements. Now tuition agreements basically are made between the Band and the school jurisdiction. We don't sit on these negotiations as a province. That is we are really trying to and have tried to foster relationships between Bands and school jurisdictions, both ways. . . to the best interests of these two parties concerned. I would imagine we would sit in, in an ex officio type of effort to help facilitate.

Even in the province where there was a comprehensive tuition agreement, the trend is to bilateral arrangements:

> I was just talking to one yesterday where the agreement is a bilateral agreement. And a number of the Bands, perhaps quite a few of the Bands in the southern part of the province have two party agreements with school divisions.

The bilateral arrangements can take a variety of forms:

> In some cases the Bands receive the money from INAC and then pay the jurisdictions and in other cases INAC pays directly even though they are not part of the agreement, they just flow the money directly through to the school jurisdiction.

## Tuition Agreement Contents

When tuition agreements were negotiated by INAC there did not seem to be any attention paid to the suitability of the educational services provided and no checks of the accuracy of tuition billings. Monies basically flowed from INAC to the provincial school divisions with no questions asked. When Indians began to take over the management of their children's education this all changed. Suddenly the provincial jurisdictions were required to account for the tuition dollars spent and to provide programming specific to their Indian clients:

> There are some new tuition agreements being made, where the Tribal Councils are having far more impact upon the kind of school environment that they want provided for their children. I know both the Tribal Councils here have signed tuition agreements with both school divisions in _____ that ties in a lot more obligations for the school divisions to provide. So I think there's a desire to work with and have some control over their children's education.

Sometimes these demands have led to protracted disagreements between the First Nations and the school divisions:

> More and more of them are signing the bi-lateral tuition agreements here. I know sometimes it takes weeks and weeks to get all those signed. They are not giving up what they want either. So the wording of some of those have just taken forever.

Sometimes it has meant that the First Nation has had to withdraw their children from the school division and insist that INAC meet treaty obligations by establishing a school on reserve. Indeed, as was shown in Chapter V, in Manitoba school divisions are compensated financially for any withdrawal of Indian children.

Indian parents want a say in the education of their children. Parental control of education is a widely held belief amongst non-Indian parents and provincial school divisions and yet when Indian parents assert that right there seems to be reluctance in the wider society to accept such claims. Representation on schools boards is a good example. The legislation of each province allows for the appointment or selection of Indian representatives on provincial school boards where Indian children are attending provincial schools through tuition agreements. Yet this requirement has had to be put into tuition agreements before some provincial boards would agree to Indian representation:

> Through tuition agreements there is also a provision for a Band member to be on the local board so that the interests of children from _____ can be represented. Three or four times per year the surrounding school divisions meet with us to discuss common issues and to discuss solutions to problems.

Many tuition agreements are very specific about what services are to be provided: the hiring of Indian counseling staff, the provision of special education services, etc.:

> [There are] parent committees at each of their schools. Indian Parent Committees, they have about five or six Indian staff hired in that system. Based on the tuition agreement, they have to comply with that. [School division], I know has a lot of Indian counselors.

The great variation in the contents of tuition agreements is evident in the following quote from a Tribal Council administrator:

> It varies to the point, and let's talk about the low end, and I call it a low end because the low end in this particular case deals with a Band that pays all the tuition according to the regulation 21. They also pay for the language teacher, they also pay for the

> special education, they also pay for their liaison worker, and they also pay for all the conferences. So they pay basically the full complementary component goes to the provincial jurisdiction. To the more advanced, we have three Bands that have, they pay tuition, and in the tuition agreements, all services including language, including liaison, including all the complementary, special education, low cost special education are all part of the regular tuition calculation. Any services that would be deemed regular high school or regular school programming are part of the tuition calculations. So the Bands then can use the complementary dollars for other education initiatives within the Band level, or to support other programs for their students.

Student mobility is a fact of life for First Nation and provincial educational administrators. In some cases tuition agreements have been worked out that take this fact into account. INAC will fund education only for those students who are resident on the reserve. The counting date for such students is September 30 of each school year. However, in many cases, students will start in the provincial system under a tuition agreement and then, part way through the year, return to the reserve school. In the past the provincial schools systems would bill tuition payments for that student as if they were in the school for an entire year. That meant that the reserve school had to find additional funds or stretch already tight budgets to accommodate the returnee students. One of the First Nations contacted arranged for a different system of billing so that this situation can be avoided:

> We're in tuition agreements with four public systems here, . . . The money flows to us and we pay those systems, we also have a two count system. Let's say a student comes back before the second semester or shortly into that and we keep that money. So we make ten monthly payments to these systems based on

> whatever their initial nominal role count is and then we adjust it in December.

Perhaps the attitude that is being adopted by most First Nations negotiating tuition agreements is expressed by this quote:

> It's negotiations, it's hard-core negotiations.

## Problems

Many of the problems which are encountered by First Nations as they negotiate bilateral tuition agreements have been discussed above. A lack of a history of bilateral arrangements has meant that there has been a significant amount of suspicion and distrust on each side. However, as First Nations move towards self-government and away from the influence of INAC it means that they are often increasingly alone. In all provinces examined there is either a province wide Indian organization or powerful Tribal Council organizations from whom First Nations can seek assistance. Since these organizations were established as lobby groups rather than administrative organizations they only become involved if the First Nations request assistance:

> The only time we hear about it is if there's some kind of controversy and somebody from another section of the department maybe is mediating. . . . To some extent the Bands weren't satisfied with the quality of education that they were paying for,

or:

> So it's just strictly the money flow, if there is a problem with the students or parents report things then we look into them. Making sure that our kids are getting a fair shake. . . . But if there's problems we try and deal with them.

Problems do exist but they are being resolved in a normal manner between two parties. This is a new and exciting development because it signifies a certain maturity of First Nations. It also indicates that INAC has in fact withdrawn from the field and is no longer responsible for Indian monies. These two indicators show that there is continued progress towards self-government.

## A Special Case of Tuition Agreements

A unique set of tuition agreements and problems exists in one area of Saskatchewan. This is the case of the existence of tuition agreements between and among First Nations. One of the cultural norms of Indian society is generosity. Therefore, when a child arrives at a reserve school there is never any question of whether or not the child is from that particular reserve. The student is provided schooling, school supplies, and extra curricular services, the same as any student who is a resident of the reserve. Therefore, it was with some surprise that the existence of First Nation to First Nation tuition agreements was contemplated.

In this case several reserves who are close to one another combined to make one school on one reserve. However, they insisted that the dollars for students flowed not to the reserve with the school but to the reserve from which the student came. These reserves saw this as a way to ensure input into the decision making of the school:

> The way to get input is to get control of the dollars. He who has the dollars calls the shots.

Also, INAC would not give monies for education to those reserves without schools. The only way that they could get education dollars was to enter into tuition agreements with the reserve which did have the school:

> I think it's probable we wouldn't have Band-to-Band relationships. But for Bands to control their own education dollars, especially tuition dollars, they must have an arrangement before Indian Affairs will let the dollars go directly to the Band. So that has brought us administratively to meet the administrative bureaucracy that Bands have chosen to take.

These types of arrangements are presently unique to one area in one of the provinces examined. However, there is a very real possibility that these types of arrangements will become more and more common. As INAC continues to tighten the distribution of education dollars they are going to increasingly demand that these types of agreements are in place before they will fund any student who is not from a particular reserve.

The province wide Indian organization is lobbying for education dollars to go to the home reserves of students and then tuition agreements be worked out for the education of those students:

> Every treaty person, their rights are derived from their home community. Therefore, it should make logical sense that the dollars for each person should go to the community. From there they will make their tuition arrangements with another First Nation, with the local school divisions, they should be able to do that.

Many First Nations have members living in urban centres scattered across Canada. For any First Nation to keep track of where its members are and then to negotiate tuition agreements for education seems like a monumental task. However, as INAC funding restrictions become more evident there may be no alternative but to adopt the model as it exists in Saskatchewan.

## Summary

All of the participants in the study agreed that a relationship with the department of education was necessary and that one did exist. However, there is great variety in the extent and the types of services provided in these relationships. Both First Nation administrators and provincial administrators see the need for such a relationship but are sometimes discouraged from developing closer working ties by the unresolved jurisdictional issues.

Curriculum development or curriculum adaptation to include more Indian content is a focus for all three of the provinces. However, the type of curriculum adaptation being discussed is important. What Indian people wish to see is a more positive reflection not only of their past but also of the current existing culture of Indian people. Curriculum additions which focus strictly on historical portrayals are rejected by Indians. All groups agree that whatever curriculum additions are made, they should be available to all students in the province, including non-Indian students so that all children can learn positively about Indian people.

One area of co-operation which has increased dramatically in the recent past is the area of bilateral tuition agreements. In these arrangements the Department of Indian Affairs is not involved and that means that the First Nation has been able to negotiate the terms of the tuition agreement so that the needs of their children are being met. Special First Nation to First Nation tuition agreements are in effect in some places and this may be the way of the future.

# CHAPTER VII

# JURISDICTION AND GOVERNANCE

In this chapter the viewpoints of the participants regarding jurisdiction will be described. All of the groups to which the participants belong, that is, First Nation administrators, Tribal Council administrators, provincial officials, and administrators from the province wide Indian organizations, agree that jurisdiction over Indian education is an issue which must be resolved. However, after that initial agreement there is very little else that the groups have in common. Also, within the various groups, opinions about how jurisdiction can be exercised and who should exercise it are varied. I have presented the views of the groups according to how they see their role in this process.

Before discussing the views of the various groups, I have presented the insights of participants on the treaty, education, and self-governance relationship. I have also presented a brief review of the various Indian organizations for the reader's convenience. Finally, I have used quotations from interviews with various stake holders to demonstrate some of the visions which exist for the future of Indian education and the relationship with the provincial departments of education.

## Treaties, Education and Self-Governance

In Chapter II the interpretation of Treaties by Indian Elders and the court system was discussed. What is evident is that both parties to the treaties recognized the existence of Indian governments at the time of negotiation and signing. What is not so clear is what, if any, powers of a self-governing nation Indians gave away and what powers they retained. The following quote illustrates the attitude towards governance of education:

> The treaties did not destroy the ability of Indians to manage their own affairs and they do not now restrict the re-development of Indian self-government. What the mutual obligation implied by the treaties means is that the First Nations governments would have to negotiate a process for dialogue and co-operation between itself and other levels of government. In the case of education that means that although there would be a parallel education system, there would still be ties and connections between the two.

A number of promises were made in the treaties and Indian people and organizations are mindful of protecting these promises while they negotiate modern self-governing arrangements. This is a common theme among all of the province wide Indian organizations, the Tribal Councils, and the individual First Nations:

> We all have the same basic relationship with the government. I mean the treaties, the wording of the treaties differ from each treaty area but they are also part of the treaty making process so that's where we have a common ground. We have to be very careful that we don't jeopardize that position. I guess we don't want to give away too much authority to the province right now before the deal is made.

The treaties contained a promise that schooling would be provided by the Crown and this promise, along with other treaty promises, must be protected in any self-government arrangement:

> Of course, the responsibility for Indian education rests with the federal government and that must not be tampered with. The preservation of Treaties and the provision for education in the Treaties is of paramount importance.

From the Indian side, the desire to protect treaty provisions has meant that any negotiations with provincial departments of education have been slow. However, from the other side, that is the provincial side, there has also been some reluctance since they clearly recognize that Indian education is a responsibility of the federal government:

> The present relationships between Band controlled schools and the provincial department of education are not very extensive at this time. There are a few Bands who have developed specific relationships with the department but, for the majority of Bands, there is not a close relationship. This is because Indian education is clearly a federal responsibility and the provincial governments are unable and unwilling to assume any measure of involvement with the Band schools. Similarly there are some elements in the Band controlled system who are reluctant to become involved with the provincial department of education, fearing a loss of control and an erosion of treaty rights.

The issue of local control of education cannot be discussed in isolation. If First Nations exercise decision making power in the education field then it is implicit that they have the broader powers contained in the inherent right to self-government. The two issues are closely related and, in fact, it may be impossible to discuss the former without also discussing the latter. Therefore, when local jurisdiction is discussed, the assumption is that First Nation control of education is merely an exercise of a power intrinsic in the right to self-government.

The occurrence of First Nation operated schools is not new. As described earlier, the process of local communities regaining control over their children's education started with the federal government's 1969 White Paper and the 1972 NIB education response the Orange Paper. Although the Orange Paper described a future where Indians would have true control over their children's education, the implementation of First Nation controlled schools has actually occurred much differently. The federal government and the Department of Indian Affairs adhered to the strict interpretation of the Indian Act and the Constitution and, instead of recognizing true local control, decided to give delegated authority to operate schools to the First Nations, and retain control for themselves.

## Indian Political Organizations

At this point a brief overview of the various Indian political organizations is in order. Indians have realized that it is advantageous to speak with a united voice and that effective lobbying requires co-operation. Therefore, they have formed a variety of associations which are primarily designed to lobby provincial and federal governments on issues that are of concern to Indians. The purpose of reviewing these organizations now is that members of the provincial organizations have participated in this study. Their views on the issues of a relationship between First Nation education systems and provincial departments of education are reviewed subsequently in this chapter. However, the reader requires an understanding of how these organizations came about and how they work in order to understand the viewpoints discussed later.

Modern Indian political organizations are a relatively new concept. None of the province wide Indian organizations in the three provinces examined has a history beyond forty years. In most cases these organizations did not begin to develop until after the second world war. Nationally, and in Saskatchewan and Alberta, the growth of the province wide Indian organizations did not occur until treaty rights were threatened by the 1969 White Paper. Indian organizations are currently deciding how First Nations can exercise the inherent right to self-government and how they can best relate to other levels of government in Canada.

## National Organization

On a national level, the Assembly of First Nations (AFN) purports to represent all of the status Indians of Canada. It is a political body that lobbies the federal government on issues that are of concern to all Indian people. However, it is not a government and does not have the power to direct independent First Nations or the provincial Indian organizations. It recognizes individual First Nations as paramount and derives its authority by delegation from the First Nations and cannot exercise power without their agreement. Obviously getting Chiefs from across Canada, each with regional and local concerns, to agree is a difficult task and has meant that the AFN, in many cases, has not been very effective.

## Province Wide Organizations

Each of the three provinces studied has a province wide Indian organization. Each of these organizations states that its member First

Nations are paramount and operates only under the direction of its members. However, the relative power of each organization is substantially different from province to province. In Saskatchewan the Federation of Saskatchewan Indian Nations (FSIN) has constituted itself as a government. The 70 Chiefs of the First Nations in Saskatchewan meet each year in a Legislative Assembly and pass legislation which affects all of the member First Nations. Occasionally it is difficult to reconcile the concept of First Nation paramountcy with the concept of FSIN as a government.

In Alberta the Indian Association of Alberta (IAA) has very little power and is dependent upon the Tribal Councils for support:

> I think the chiefs' Indian Association is almost falling apart. They still have an annual assembly, but the tribal councils are very powerful now, they almost control what happens. . . . I guess they make political decisions for overall treaty rights protection but the autonomy of the Bands is very much respected. They would not try to override the powers of the Chiefs and Councils.

The situation of the Assembly of Manitoba Chiefs (AMC) is currently undergoing change. Originally constituted as a lobby group it has now signed a self-government arrangement with Indian Affairs that would see it replace the Department of Indian Affairs in Manitoba. The deal has yet to be implemented because the individual First Nations of Manitoba must still be consulted and convinced that they should allow the AMC to have power over their local governments.

## Tribal Councils

In the mid 1980s Indian Affairs decided to downsize and devolve management functions to First Nations. The Department had a number of District Offices which provided services to First Nations. As the process of downsizing and devolution proceeded these offices were amalgamated or closed. Indian Affairs set up Tribal Councils, contiguous with their former District boundaries, to take over management of programs and provision of services to member First Nations. The Tribal Councils were seen as a way to incorporate economies of scale in the downsizing process. The relationship of these Tribal Councils to the province wide Indian organizations was never very clear and the relationship is still being defined.

Tribal Councils recognize their member First Nations to be paramount and, therefore, the powers of the Tribal Councils vary greatly, not only among provinces but also within provinces. The powers are determined by the member First Nations and in some cases significant power is delegated to Tribal Councils while in other cases the Tribal Councils have no authority at all and all decisions must be ratified by the member Chiefs.

In Alberta the First Nations have decided that the boundaries of Tribal Councils imposed by Indian Affairs are artificial and do not reflect traditional communication and co-operation patterns. Therefore, at least three of the present Tribal Councils have been organized along treaty boundaries. The resulting Tribal Councils have become very successful providers of services to their member First Nations.

## Community Governments

Finally, each First Nation has a Chief and Council who are the government of the local community. As the local government, they are responsible for every aspect of life on their reserves. In some ways they are comparable to rural municipal governments but Chiefs and Councils have considerably greater responsibility and power than most rural municipal governments. As individual First Nations they believe that they have all of the rights of a government and they are currently examining ways in which that governmental power can be exercised.

These local governments are currently established according to rules established by Indian Affairs in the Indian Act. These rules do not reflect traditional patterns of governance or decision making. Increasingly, as First Nations contemplate self-government, they are faced with the necessity of designing systems of government which will replace the Indian Affairs model and restore elements of traditional practice.

## Problems

Modern Native governments are still new and so, perhaps naturally, there are some growing pains involved. Occasionally there is friction between the individual First Nation governments who are attempting to exercise the inherent right to self-government and the Tribal Councils or province wide Indian organizations who are trying to organize themselves into governments also based on the principle of the inherent right. The argument is basically between the recognized fact that acting together the First Nations will have more influence and therefore should form comprehensive governments; and the unwillingness of individual First Nations to give up power and authority.

Most First Nations see the benefit of having an organization to which they can turn when they need help or who can deal with issues that are of concern to a number of First Nations. However, many First Nations are reluctant to allow any other organization to exercise power on their behalf. One First Nation administrator suggested a more low-key approach:

> But you have to bring those Bands together, maybe start with a steering committee first, real informal and just take a few small things, and then build up into a more formal organization where you have that regional body. But it would have to be worked out from the grassroots, at the Band level. . . . I think that when people start talking about a regional body and saying who will be the Director, then I think you're in trouble because nobody likes that.

The concept that any co-ordinating or governing body has to be built from the independent First Nations agreeing to co-operate, rather than from the top down is essential. Attempts at top down organization are doomed to failure:

> I know [province wide Indian organization] has tried to do that, they have that Treaty Indian Education Secretariat and they have vice-presidents from each Treaty area that sit on the Board there but really they're ineffective. They're not representative. . . . The thing is the Bands operate independently with their schools and then you have the [province wide Indian organization] having their Treaty commission on education, or whatever they call it, but it's not being recognized at the Band level as being representative of the Treaty area.

Another First Nation administrator described what he sees as the relationship between the First Nations and any province wide Indian organization:

> We will not allow the [province wide Indian organization] to tell us what the relationship should be. The _____ Band believes in its autonomy as an individual First Nation government and does not need others to negotiate for it. I do not believe that the leadership claimed by [province wide Indian organization] is accepted by First Nations generally but, specifically in our case, we are going to do what is in the best interests of our students and our community. In my opinion, the [province wide Indian organization] has a mandate to explore possible relationships with _____ Ed. but not to manage Band education. The [province wide Indian organization] was established as a lobby group for First Nations, not as a management group.

Even some of the Tribal Council administrators do not believe that the province wide Indian organization should be the governing body for education:

> I've had a couple Chiefs tell me that these guys don't listen to the grassroots people. Rightly or wrongly, these Chiefs are taking their responsibilities of jurisdiction very very seriously and they're not going to let anyone into their boundaries.

Obviously the potential for conflict between the individual First Nations and the Indian political organizations is extensive. The process of re-establishing traditional governance patterns or seeking to develop new ones which better meet their needs is consistent with the theories of de-colonization examined in Chapter I.

## Present Positions

In this study individuals from three levels of Indian government were asked to participate. These were the province wide Indian organizations, the Tribal Councils and the local First Nation governments. In addition, representatives of the provincial governments were asked to participate in the study. Each of these organizations sees a unique role for itself as well as having suggestions as to how, or if, negotiations should take place between itself and other levels of government. The following sections detail the viewpoints of the participants from various organizations.

### Position of the Province Wide Indian Organizations

The inherent right to self-government is exactly that: inherent. It has not been, nor can it be, delegated by any European or Canadian government but has always been in existence. For the province wide Indian organizations this is the starting point for all negotiations:

> First thing we are going to start with is inherent rights, from the Creator is where we get our responsibility and so on. Go from there into the area of jurisdiction and show how, legally, we do have the right to autonomy within our jurisdiction, so we're going to go from there.

As a part of their lobbying role some of the province wide Indian organizations see themselves as having the responsibility of guiding the member First Nations to awareness of their power and jurisdiction:

> The first thing that we have to do is we have a responsibility to the First Nations and what we are trying to do with them is basically get them to acknowledge and accept that they do have

> this authority. . . . The First Nations have the legal and political authority to control education within their jurisdiction.

Role of the Province Wide Indian Organization

Administrators within the province wide Indian organizations see themselves as facilitators:

> The only thing we can do in our organization is provide policy recommendations to the First Nations. . . . For example in the area of standards we will bring in people from the communities who have expertise and interest in that area. We will sit down and we'll discuss this issue and we'll come up with a policy position paper which we will share with the First Nations at least as something that they can refer to. I'm not saying that they have to take that. . . . What we're hoping to do is provide some solutions for them that will lead to their own individual solution.

They also respond to requests for assistance from First Nations:

> If there's a request that comes in, we are on call for the Bands. And if there is a group, say an issue that they need to have dealt with, then they come and we coordinate. And that's what our major function is, coordination of both the technical people at our level and political people at the Chiefs' level.

Performing the role of lobbyists also ensures that individual First Nations get the opportunity to talk to the right people in the provincial or federal governments. If the First Nations want to negotiate on an equal basis, then it is essential that they speak to people who have authority to make decisions rather than functionaries:

> I think in the past, some of our leadership in the First Nations community are dealing with people who don't make decisions, who don't set policy directions. At least this way you're sitting with the right people, you can set policy together and direction

> together and then the technicians can work together on it. At least that process is in place.

Despite viewing themselves as lobbyists and negotiators, they also see a technical role for themselves. This means that they see an administrative function for their organizations as well as an advocate function:

> At the tier one level the politicians, the Chiefs and the Councilors of the First Nations, the [province wide Indian organization] and the AFN will be dealing with the Prime Minister and the Ministers at a political level, they will deal with political issues. At the tier two level is where the technicians will work on specific areas like justice for example. Their technical people will work with our technical people on matters of common concern.

One other province wide Indian organization is attempting to decide what its role should be. From the following quotation it is apparent that the organization also sees an administrative function for itself. However, since the member First Nations control the organization they are the ones who will have to decide what functions they will allow the province wide Indian organization to administer:

> We've had three years of looking at different things, having people decide how they wanted to make education more relevant to their children, their communities, answering to their needs. And we've been looking at ways and means that could happen in terms of what kind of education models we could have on the reserve, levels of cultural integration. Looking at ways and means we could work together in the province if we established our own mechanism for delivering education services. Just, you know, looking at developing our own standards, our own mechanisms for delivering education. Basically taking over the role that the province currently has in terms of the determining, you know, standards and what's going to be taught in schools.

However, the voices of the First Nation saying that they are paramount is being heard by the province wide Indian organizations. This means that the province wide Indian organizations need to be engaged in a delicate balancing act between their lobbying role and any administrative function which they might envisage for themselves:

> We have to be careful that we don't create a bureaucracy and that's the word we're getting from everybody. Whatever you do don't become another INAC or another Department of Education but do what your supposed to do, and that's provide support. So that's going to be a tough thing to do but basically we have to figure out a way around.

Similar concerns exist in another of the provinces examined and the province wide Indian organization is also aware that the individual First Nations do not want them to become an administrative body:

> Most things will be done at the local level, and this office basically works that way. It's not here to give directions or to play big daddy and say, you have to do this and you have to do that. . . . That's a concern that's expressed here as well. Like how much power would this co-ordinating mechanism have? And that of course basically is up to them. They would come together and make the decisions so they have to give us that direction. . . . We work at the direction of our communities. And if they say whoa, we whoa. If they say go, we go.

### Separate But Equal Status

To an extent, the system of Indian education has always been separate from the provinces. The fact that it is the responsibility of the federal government rather than the provincial government is an immediate cause of difference. At the same time there have always been ties between the two and occasionally the federal government has tried to download the responsibility for Indian education to the provinces. Now the responsibility has been shifted to the First Nations and some First Nation organizations are saying it is time to construct a model of Indian education that would be different from the existing provincial or the historic federal models. Of course there would still be ties between the two systems based upon mutual respect, but the Indian system should be capable of independent functioning.

An advantage of such a parallel and independent system is that it may make negotiation on a level of equality easier. One of the province wide Indian organizations has the following vision of an independent Indian school system:

> In accordance with the development of self-government, it is envisaged that Indian school systems would eventually form a parallel system to that which exists in the province. It is important to note that what is envisaged is not an extension of the provincial system to include Band schools. Rather the intent is to have a separate and parallel structure of education for Indian education. The authority and recognition of this system will come from the Indian people themselves in accordance with principles of self-governance and the structures which they set up would be recognized by the provincial government. The responsibility for funding Indian schools clearly lies with the federal government as a treaty responsibility and, therefore, no financial demands would be made on the provincial system.

One of the Indian organization officials described the desire to negotiate on equal terms, as follows:

> We want them to respect our jurisdiction; we will respect theirs. When there's issues of common concern, we will do it together. I guess what we're trying to avoid here is having decisions made unilaterally, we want to be involved in them, together. However,

> when it comes to things at the First Nation level, that's up to the First Nation to do. . . . The province uses the argument that they have control over all education for all of our citizens within our province, which includes us. And of course, we're saying that's not true, you control education for your citizens and we control education for our citizens.

This same administrator sees an administrative role for the province wide Indian organization in the operation of Indian education:

> In terms of education the Department of Education will deal with our office as well as other Directors from the Tribal Councils and the First Nations and we will deal with educational matters that are of common concern to both of us.

Another province wide Indian organization official sees the development of the recognition of the existing power and jurisdiction of First Nations as an important developmental step:

> One of the biggest changes that I've seen is the level of knowledge in terms of education. The realization of the community members that attend those meetings that they have certain rights that they can access. They have a right as well for talking self-government to decide what goes on in that education system. Granted they have some qualifiers right now but they do have a right to implement the local education system. And that kind of empowerment is occurring in the community.

In the opinion of one Indian organization administrator the First Nations must use the authority that they already have and then make a conscious decision as to what they want their education system to look like:

> Bands do need to be made aware that they do have jurisdiction, especially in education, they can actually exert autonomy. From there it's up to them what they want to do. If they want to adopt the provincial model, that's their prerogative, if they want to

> adapt INAC policy that's their prerogative, if they want to adapt another provincial model or another First Nation model, that's up to them. The main thing is that it's a conscious decision on their part, not something that's being imposed on them.

The recognition that First Nations have the inherent right to self-government, including the right to manage their children's education, is essential before any meaningful negotiations between themselves and the provincial department of education can occur.

### Position on Negotiations

Even though the First Nations are anxious to exercise their jurisdiction over education, that does not mean that they are unwilling or unable to see the need for co-operation between themselves and provincial departments of education. The inherent right of First Nations to exercise jurisdiction over education must be recognized by all parties:

> In terms of the First Nations and their jurisdiction over their educational systems, that's not on the table, that won't be up for discussion.

However, after that point is recognized negotiations are possible. The main point is that any negotiations have got to start on the basis of equality between the partners and not as a provincial government telling an Indian government what to do:

> What in the end I think is going to have to be worked out is a compromise between the various interest groups. But you know the question of jurisdiction is one that could be, that has the potential to be very disruptive. . . . But I really do think that for the most part what Bands don't want, because of a history of it, is being told what to do. Of feeling that they have no say, no option, no alternatives.

Negotiations may not be easy because of some mutual distrust between the parties. Certainly from the Indian side the negotiators are going to be very careful not to endanger any of the treaty provisions and not to be coerced into any relationship by a more powerful government:

> From the Band side of course you do have a long history of being told what to do. Essentially jurisdiction and control being taken out of your hands, and subsequently a wariness of government institutions whether they be provincial or federal. And not without legitimate reason too. And I think that these are some of the things that provincial government officials from education have to realize that when they're dealing with Native groups, whether it be the Metis settlements or it be Bands or urban groups that there is this -- behind in the back of your mind, wariness that --- trying to take control or losing control and that that's what they are always fighting. And sometimes they say well what are you fighting against and we're here to do the best. But when you're talking to somebody that has a known history whether it's personal or otherwise of -- yeah but your best usually turns out to be telling us what to do.

One province wide Indian organization administrator stated the problem this way:

> The [province wide Indian organization] has taken the position that education is a treaty right. . . . That is, they [the First Nations] have jurisdiction over education. And they don't welcome provincial interference into anything they do in education. So if you spend too much time with the province then you're kind of jeopardizing your own position. So the relationships we do have are informal at best. Like I mean I have some contacts over there if I want to find out what the province is doing, but it's not formal in any way. I haven't had any reason to contact the province. We have mainly a provincial political lobby type of relationship where if we have a problem we go to the Minister of Education to raise an issue.

Despite this mistrust there are initiatives in all provinces designed to facilitate relationships between the provincial department of education and the First Nations. Sometimes these initiatives are informal and small scale, and in some cases they are province wide memoranda of understanding being negotiated. The speed and success of these negotiations will be determined by the good will each party is prepared to demonstrate.

## Position of the Tribal Councils

The Tribal Councils are composed of member First Nations and are designed to be more responsive to the wishes of their members than are the province wide Indian organizations. This may mean better service at the local level but it also means that there is considerable diversity among the Tribal Councils concerning the development and implementation of self-government and the exercise of jurisdiction.

### Role of the Tribal Councils

Most of the Tribal Councils see themselves as service delivery agents for their member First Nations, as opposed to governing bodies:

> The [tribal council] organization is a co-ordinating body and not a governing one. They deal with programs that affect all of the member organizations while respecting the autonomy of each organization. Issues such as funding, special education, standards, etc. are co-ordinated though the [tribal council] education group.

The recognition of the autonomy of each member First Nation and the exercise of delegated authority is a common feature of Tribal Councils:

> We have a district approved autonomy to each Band, and therefore any decision power we have at the Tribal Council level is given to us by that particular Band. It's a guarantee that if they wish to exercise their own jurisdiction in that area then they

> will. It's [the Tribal Council] more to assist the Bands in making sure that the legislation and the proper authorities are in place to do what they need to do, by putting together a sample tuition agreement, putting together sample pension plans, putting together sample Education Acts, and negotiating with the province to enable certain things to happen.

There is also concern by some Tribal Council administrators that the province wide Indian organization is developing into an administrative body. The fact that negotiations are being conducted between the province wide Indian organizations and the provincial government and that there are memoranda being signed are causes of concern. The province wide Indian organization acts as if it represents all the First Nations but in fact some of the Chiefs may not be aware of what is happening. This means that it is becoming increasingly difficult for an individual First Nation to exercise its inherent right to deal Nation to Nation with the province. One Tribal Council administrator expressed the concern in this manner:

> In some cases, when I talk to some of the Chiefs, when I have an opportunity to meet them, in some cases they're saying, well we really didn't understand that. We didn't understand that to be that solid a position, but it's becoming a very solid position because [province wide Indian organization] lobbies directly to _____ Ed. _____ Ed. doesn't listen to guys like us. . . . I often wonder exactly how much of the message from [province wide Indian organization] gets down to the Tribal Councils and to the various Bands.

Separate But Equal Status

As was discussed, there is a move by some Indian jurisdictions either on a First Nation basis or a province wide basis, to create legislation affecting education which would be referenced to the inherent right to self-government and the exercise of that right by First Nations people rather than to any federal or provincial government:

> _____ First Nation is presently looking at developing a self-government framework. Under that system, the Band would develop its own Education Act. Such an Act would include standards that the Band felt were applicable.

A Tribal Council administrator expressed some doubt that the establishment of a series of independent jurisdictions, each based on their own Education Act would be a viable solution to the problem of how individual First Nations could exercise their inherent right to self-government:

> I find it very difficult to understand how we can form a whole series of different jurisdictions and be able to supply, satisfy the curriculum change needs, the materials, etc., in these various small pockets. I don't think there's enough money in the world that can satisfy the curriculum development that has to take place, I don't think there's enough money in the world to be able to convince a publisher to publish materials for small pockets of jurisdictions.

### Position on Negotiations

The Tribal Councils are somewhat left out of the negotiation process. Either negotiations are occurring between the provincial government and the individual First Nations or between the provincial government and the province wide Indian organizations. Tribal Council administrators do not tend to get involved in these issues but are limited to providing support and help for tuition negotiations, provision of second level services and other service delivery type functions. A Tribal

Council representative takes the approach of meeting with provincial counterparts to discuss their relationship:

> We host annually; a typical example is a meeting with all the provincial school jurisdictions and the Department of Education people to talk about how we can better smooth out our relationships, and how we can better help each other and complement each other. We did that again in January this year. So the Regional Directors, the Curriculum Co-ordinators, the Special Ed. people and all the Directors of Education from the provincial jurisdictions that were involved, sit at the table with the Tribal Council, and say, now, here are some of the difficulties we're having with co-ordinating these activities, how do we smooth out the transition?

One of the Tribal Council representatives interviewed believed that most First Nations in his area were willing to negotiate with the provincial department of education:

> I suspect, and this is only an opinion that I've gathered from the various meetings I have gone to, I suspect, in this region, that the people around here, the Bands around here, would be more inclined to share responsibilities for education with _____ Ed. Whether that's a true statement or not I'm not sure, but that's what I sense. I sense down South and in the Eastern part of this province, it's a bit different, and I think the North is probably a little bit different.

### Position of Community Governments

The difficulty that some First Nations are having accepting the concept that they can be self-governing Nations is a result of the fact that for at least a hundred and fifty years the governments of Canada have tried to erode that right. The result is that most First Nations communities have not taken the step from administering their own education systems to controlling their own education. A First Nation administrator expressed the problem:

> In an Indian community, education when it was handed over was foreign because somebody else always did it. And it had not been an integral part of their system for years. It's always been somebody else doing it and making decisions because somebody else knows better. All of a sudden to have this new thing thrust upon you and told to run it, the community expects you to run it. I mean you've got to have at least some background and tradition. And without tradition how do you acquire it?

Many of the First Nation administrators who participated in these interviews stated that the task of providing educational services in an Indian community is more difficult than in the rest of the province. Because the schools are locally controlled there is much more involvement by parents and community members in how the school operates and what is taught. At the same time parents have expectations that their children are going to achieve the same standards as children in the rest of the province. The following illustrates the point:

> They [Indian school boards] have to meet their own local objectives, their community standards, they have to meet the provincial standards as well, there has to be a combination. I think they have more of a challenge than the provincial system, the provincial system has to meet provincial standards, they don't really have to meet the community standards. Because we're talking about, the First Nations, we're talking about local history, values, a number of things like that, language and cultural knowledge that the First Nations students will have to meet. Plus we have to prepare them for the outside society as well. So that means they have to meet the provincial standards.

### Role of Indian Organizations

As mentioned earlier the First Nations recognize that there are advantages in combining for specific purposes. However, they are also unwilling to give up any of their decision making powers. One First Nation administrator expressed the opinion that a formal organization is not necessary in order to accomplish common goals:

> When it comes to critical issues, we had two all Chiefs summits that were very successful. There was no formal organization; they just came together for issues. It works well that way, but to have an umbrella, an overall umbrella with one person trying to determine things, I don't think that will ever happen. They respect the autonomy of the Tribes too much and our agenda is very much different from [other First Nations].

According to one First Nation administrator any attempt to organize would have to come from the First Nations; not be imposed by the province wide Indian organization:

> I think that it would be difficult -- let's say the [province wide Indian organization] or some other provincial body said we should have this organization. If it starts from there, it wouldn't work. I think it has to come from the Treaty areas, from the Band level areas deciding that that's how it would work.

The role that First Nation administrators envisage for the province wide Indian organizations or the Tribal Council is restricted to lobbying provincial or federal governments on issues that affect them collectively:

> Maybe this large group would talk about stuff like taking jurisdiction and lobbying for _____ School Act to change, and changes to the Indian Act and writing up some sort of a statement or whatever to take jurisdiction, maybe that's what these guys would do. Then the regional groups would be involved with more, like _____ Ed. does, in curriculum development and those kinds of things. Then the Band operated schools would still be independent, run by their Boards, but now they just deal with running their schools.

Some First Nation administrators see any attempt by the province wide Indian organization to establish an administrative function as counter productive to the development of Indian education:

> I know that locally, there was a conference sponsored by [province wide Indian organization], and they presented a paper talking about setting up a parallel system in _____ or Native education. A separate Department of Education with its own rules, its own bureaucracy, and everything else that goes along with it. I have some problems with that, personally, because I see that all you do is simply divide your society and the cost factor just escalates enormously, and that doesn't seem to make much sense to me.

Another First Nation administrator commented:

> Now [province wide Indian organization] has their own idea of what they're going to do, their own agenda, and I know that. They would like to be the umbrella organization a la _____ Ed. and we fall under there and they would be the granting institution per se. We have a lot of problems with that and we wouldn't go that route.

In a different province one First Nation administrator expressed deep misgivings about the prospect of the province wide Indian organization becoming the governing body for education:

> I have a suspicion that we will be going from the pan to the fire. You know, somebody is going to have to be in charge of the distribution of dollars and the direction of education. . . . I'd sooner fight with the devil I know. I say that because of my experience in seeing Bands manage their own affairs. And, fortunately, we're not part of that.

One particular First Nation has decided that its interests would be best served by withdrawing from the province wide Indian organization. They do not believe that there has been sufficient action in response to identified problems and they believe that they can do a better job on their own:

> We perceived and do perceive that there are a lot of issues in Indian education that have to be discussed and some conclusion arrived at to better the situation. The Chiefs' committee in education hasn't done anything. There's been all kinds of studies and recommendations and identification of problems and nothing happens. So we said to hell with you then. We'll go on our own.

## Separate But Equal Status

Even though there have been Band administered schools since 1973, there are still very few First Nation controlled schools in Canada. The difference between administering a federal program and actually exerting control over children's education is a significant one. This issue was discussed in greater detail in Chapter III. As one First Nation administrator put it:

> Our system here actually isn't, in my opinion, a fully Band operated school system. It's basically -- we have the administrative control of a federal program. And it will stay like that until that section in the Indian Act changes because only the Minister responsible will put a school on the reserve and all we've done is taken over the administration of his schools on the reserve. . . . So I think that at some point that has to change to recognize that jurisdiction so that the Bands actually have jurisdiction over the schools; so they become real Band controlled schools.

There is also a perception that control of Indian education has already passed to the provinces and that it is necessary for First Nations to struggle to regain control:

> Even though Indian Affairs which is a federal jurisdiction does have the legal and constitutional responsibility for Native peoples, the federal government has inadvertently or by design, either way, transferred the moral responsibility to the province. It's there. It's not legislated but it's there. For example, the

> department of Indian Affairs insists that each Band must follow the curriculum of the province in which they exist. So Native schools in Manitoba follow the Manitoba curriculum and department regulations. Saskatchewan, Alberta, BC, all do the same thing. So there has been a de facto transfer of responsibility to the provinces.

One First Nation administrator expressed the fear that the provinces are gradually extending their jurisdiction to include Indian schools:

> It's very scary that they're trying to intrude more and more into our territory.

Some First Nations are in the process of developing self-government arrangements with the federal government, which would recognize the inherent right. In most cases, these agreements would contain special provisions for education:

> The _____ First Nation is presently looking at developing a self-government framework. Under that system, the Band would develop its own Education Act. Such an Act would include standards that the Band felt were applicable. Standards would have to be developed for accreditation of students, transportation, evaluation of students, and teacher evaluation and certification.

Naturally there is some discussion about how that legislation would be recognized but until First Nations exercise their rights they will not be taken seriously. One First Nation administrator would give the following advice to First Nations wishing to obtain recognition of their jurisdiction:

> The time is long past when people can tell you what to do. You see currently, with the atmosphere of Indian relations with Canada, where Canada is saying, we're going to let you run your own lives, is inconsistent with what the regional offices are doing. . . . They want to maintain their control. I told these guys, take up the

> challenge. Challenge regional office and tell regional office you want things differently. If it takes a couple of hundred Indians to sit in their offices to make a hell of a noise, you know. Regional office is very embarrassed and Canada would be embarrassed and they'll get some changes of some kind. That's what I would do.

The time when First Nations will exercise their rights and these rights will be recognized by the larger society may be some time away. However, the province wide Indian organizations and individual First Nations are continuing to work in that direction. Meanwhile, First Nations have had to implement interim solutions as they develop a relationship with provincial departments of education which will be of benefit to their children and yet not damage their inherent right to act as self-governing Nations. Negotiations with provincial systems on the basis of equal partners is the direction that many First Nations have chosen:

> As long as there's an equality across the table in these talks. You're going to the table as an equal. You can say this is the way it's going to be, this is what our side wants. . . . I suspect that because of the intervention that Indian Affairs always seems to have in all of these things, the Bands go there thinking that they are a third party and not equal, and bow to what school divisions say. Because school divisions, for the most part, get the backing of the Department of Indian Affairs. . . So what do you do about it? You have to do something about it. If you're going to have anything reasonable, for the production of good education for your kids in the future. That's a responsibility that you have. I don't care what circumstances you find yourself in , you do have that responsibility, and you've got to make some decisions for the kids. Otherwise you're short changing them and doing them an injustice.

However, some First Nation administrators do not believe that the answer to the problems of Indian education lies in the creation of a parallel system of education:

> What [province wide Indian organization] is saying is that we want to have our own Department of Education. And to me, I don't see much purpose in that. All you're doing is creating a divisive society as opposed to a unified society and all it's going to do is create problems in the future. . . . I guess it's still a question of how the future is going to emerge, by evolution or revolution, and revolution to me is just a little traumatic.

Position on Negotiations

Participant First Nations recognize that however they exercise the right to self-government there will have to be arrangements made between themselves and the provincial education authorities. While they recognize that they have the right to establish entirely independent organizations, they also recognize that to do so would not necessarily be to their advantage. What they would like to see are negotiations with the provincial authorities that would be based on mutual respect and recognition of jurisdiction. A First Nation administrator phrased it this way:

> Self-government will mean that negotiations must occur Nation to Nation, on an equal basis. Some of the larger Bands will have to take the lead in this process and it may well be that they establish the pattern and methods which smaller Bands might follow.

However, the desire to retain control over their own education systems is very strong. While they are willing to negotiate, they are not willing to give up jurisdiction:

> As individual First Nations governments develop, they will have to work out their own arrangements with _____ Ed. There are

> currently some Bands who are moving closer to _____ Ed and I do not believe this is a good idea. Each Band will develop its own jurisdiction and governance of education and will have to work out [their own] relationships.

Discussing the negotiations that will be necessary between themselves and the provincial department of education, one First Nation administrator said:

> Well, I think I would have to study it legally, or try and study it legally. I think if it's going to be a compromise where they start interfering then I don't think we want to have anything to do with it. . . At this point I don't even dare suggest any kind of a permanent relationship.

### Join the Province

In some cases individual First Nations have decided that the way in which to influence what their children are taught is to seek representation on provincial school boards:

> I don't think [province wide Indian organization] is going to solve the problem by creating a parallel system. But I think that if you can become part of the existing system and create an influence in the existing system and then using resources of expertise and the experience and gradually bring people in who are qualified and who are confident and who are dedicated, I think you're going to have a much better system.

In Chapter V the legislation examined shows that this is possible in all three provinces but the experience of implementing this is not uniform. Some First Nations are including representation on school boards as a part of their tuition agreement with the surrounding provincial school jurisdiction:

> We have one Band that has agreed to becoming part of the school jurisdiction and have formed a sub-division of a school jurisdiction. Therefore they have an appointed board member or an elected board member that sits on the division board. That is only one Band. The other Bands all have a problem with the jurisdiction issue.

The problem with this solution is that although it gives the First Nation a voice in determining what kinds of educational opportunities will be offered its students, it recognizes the jurisdiction of the province over education and also recognizes the provincial laws and regulations by which members are elected to the Board. This may be in contradiction to the way in which First Nations would select representatives. Negotiations again seem to be the key in resolving this difficulty:

> The Band and Chief and Council or the Education Authority and Chief and Council elect to ignore the School Act. And that way jurisdiction doesn't seem to be a problem for that. And that was a difficulty with all the other Bands. The other Bands would like to have a representative on the school division, but they do not want to give up the jurisdiction that they can appoint whoever they want to that committee.

The extreme position regarding defining a relationship between First Nation schools and the province has been taken by one particular First Nation. They have decided to become a part of the provincial system as much as possible. They have decided to elect their Board of Education according to provincial legislation and have incorporated themselves as a separate organization from the Chief and Council. They have also been accepted as members of the provincial school trustees association and are applying for membership in the provincial home and school association:

> For example, _____ is the first Band to create an autonomous Board of Education and secondly, we have just applied for and been accepted as members of _____ School Trustees Association. We are also part of the provincial Home and School Association. The thing I find not only amazing but also exciting is that these provincial organizations, as they are currently established, are anxious and excited about getting Native peoples involved. They would like to have Native people sitting, not only being members of the __STA, but also sitting on the executive and giving some kind of direction in helping the __STA develop the kinds of programs and activities which would raise the self-esteem of Native students and also make them feel part of the whole society in which we live. I've never been able to understand, quite honestly, how you ever create unity in divisiveness.

For this First Nation the efforts by the province wide Indian organization to create an Indian education system parallel to the provincial system is an unnecessary waste of time and resources. They believe that unity with the provincial system is the way in which they will be able to ensure that programming specific to their students is taught in the schools their students attend:

> If you're looking for some kind of universality, either Bands can look at an external institution at this point in time, with some degree of trust, then that might be the route that best serves their interests not only in the immediate future but in the long term future. I guess it's this vision thing that one has to start looking at. And this is why I guess when I look at all the possibilities, to me, the only thing that makes sense is, look why not become involved in the provincial structure, have an influence in the provincial structure to effect your individual Band needs and your collective needs.

This position has gathered some criticism in the rest of the Indian community because many other First Nations see it as giving up too much jurisdiction. By accepting the provincial organizations and by becoming a part of them they fear that their own jurisdiction will be lost:

> An example would be _____ Band. Now there's a Band that, in my estimation, has gone too far in terms of relations. . . . They've gone to the other extreme, I believe, there's got to be some kind of middle ground where we establish our own organizations.

## Perspective of the Provincial Governments

In many ways the provincial governments are caught in a difficult situation. Clearly the education of Indian students is a federal responsibility and the province does not have any jurisdiction. Also there is a large and increasing number of students attending First Nation controlled schools and these students study the provincial curriculum and want to be granted provincial leaving certificates; and their teachers want curriculum in-servicing and recognition by the provincial department of education:

> _____ Ed. recognizes that there are increasing numbers of Band controlled schools in the province and that there are increasing numbers of students attending them. We also recognize that these schools use provincial curriculum and need other services from the province. However, the decisions on how to develop a relationship between these schools and _____ Ed. are difficult because schools on reserves are funded differently; i.e. federally. Also, various Indian political organizations in the province hold different views regarding linkages to the province.

The province recognizes that there are a large of number of aboriginal students attending provincial schools, either through tuition agreements or as regular students. It has been clear for a long time that the traditional curricula are not working for these students. The dilemma for many provincial administrators is how to improve curricula and work with Native people and, at the same time, avoid the jurisdictional minefield.

Position on Jurisdiction

In discussing these issues with the provincial department of education representatives, all recognize the fact that First Nation schools are independent jurisdictions existing outside of the provincial education power:

> _____ Ed. understands that the Bands are primary and that any participation by _____ Ed. would be to provide facilitative rather than co-optive leadership.

However, in most cases the provincial departments of education are prepared to provide services to First Nation schools. Whereas curriculum changes could be legislated in their own schools, they can only offer services to First Nation schools:

> Yeah, and I respect Band schools' independence and that's why we, all of the services we provide, is simply a service. Whereas in the provincial system we put a lot of pressure to make sure that we have full participation. For Band schools, we offer it and say this service is available and if you wish to send your teachers in, you may.

In the opinion of one provincial administrator the concept of offering services rather than trying to direct First Nation schools is the only approach which will respect the jurisdiction of First Nation schools and, at the same time, provide the teachers with the most up-to-date information:

> The informal [approach] allows for the independence, to some degree, of Band schools to make their own decisions in the sense

> that, I guess that when we don't make anything compulsory and we just make it optional and provide the service, then there's a feeling of not trying to control or direct but trying to give service.

The jurisdictional issue has led to some difficulties as the provincial departments of education try to deal with the province wide Indian organizations. As was discussed earlier, there is difference among the member First Nations of the province wide Indian organizations as to whether or not the Indian organization represents them. This compounds the difficulty the provinces face since they must decide with whom to deal. One provincial official described their relationships as follows:

> Now over the last few years there hasn't been a lot of interaction say between the political organization and the _____ Ed. related to education kinds of discussions. I know even at the level of general government and the [province wide Indian organization] there have been some strained relationships for awhile as well. There may be some reconciliation there in the last little while. But it seemed like after, when was it, after the, after Meech Lake, after the big push with the vote, things just really died down as far as aboriginal issues in government.

A provincial official in a different province was slightly more optimistic when describing efforts to arrive at a framework for how the two sides would relate to each other:

> More recently, the Premier and the Chief of the [province wide Indian organization] have signed a bilateral agreement to examine the educational relationship. Negotiations are presently on going between functionaries of the two organizations to try to work out details of what the bilateral process means and how it should be implemented.

Position on Negotiations

All of the parties agree that there is a need to provide provincial services to First Nation schools. Finding a way to do this while respecting the other's jurisdiction is the difficulty. As a result of historical trends, there is some suspicion on the part of First Nations and the province wide Indian organization about the motives of the provincial departments of education, and this is recognized by the provincial officials:

> I know some of my colleagues in other Regions when they try to set up the same processes that we have going in this Region, they get a very suspicious reaction from the Tribal Councils, saying well, are you people trying to move in on us. . . . it was trying to meet a need, that's how we came together. It wasn't anybody trying to take over anything. So we don't have that suspicion because it's simply based upon -- I think it grew from a mutual need. . . . I know there's suspicion in the other Regions. I've had colleagues say to me, "I can't get that going in our area."

As was discussed earlier, the First Nations and their organizations wish to protect the treaty relationship and their own jurisdiction. This has meant that, in some cases, they are not as forthcoming with information as the provinces would like:

> They're [the province wide Indian organization] reluctant with information as well. So, I guess the expectation, at least until this restructuring, was that _____ Ed. would respond, continue to respond, to whatever request, they might have without any exchange of information.

Most provincial officials recognize that there are on-going efforts within the province wide Indian organization to attempt to organize and to determine, with their member First Nations, what the relationship with the provincial departments of education should be:

> The [province wide Indian organization] has been for the last two or three years meeting with every community to discuss these issues with the people and get a consensus on what is it we want for education in _____. And will it be, you know, will we have one umbrella body. Will there be regional kinds of things? School Divisions? In some instances it will be individual Bands who decide things specifically for themselves. So they've been working with that and have the recommendations that say this is where we're going as far as education in Band schools. So we've met with them on occasion to try to say OK, this is where you're going and here's some of the things, and how do you see that? What kind of relationship do you see with the province?

The provincial officials consulted recognize the need for the provision of services to First Nation schools. They would like to see some kind of arrangement negotiated which would formalize the informal relationships which already exist in many particular circumstances:

> Yeah, I would like to see it as a higher profile. There is some negotiations going on around services and provision of service, bilateral/trilateral agreements being discussed by _____ Ed. with the Indian community. I don't know where that's at. It's strange that those discussions are going on and yet, out in the field, we seem to be achieving some of the objectives, just going on with everyday living.

Problems

The provincial education officials are aware of the desire of the province wide Indian organizations to set up a parallel Indian school system. Although they recognize the right of the Indian community to do so there is a perception that this may not be the best route to follow:

> Personally, I do not believe that a separate parallel system of Indian education is the answer to present problems. It seems

> that this would be a duplication of service and that some means of shared decision making between the province and the Bands would be a better option. However, we recognize that the Bands in the province will have to choose their own model and we are willing to work with them. Even if a parallel system develops there may be a period of segregated activities and then linkages will begin to develop. If that is the case we want to continue to work towards developing those linkages.

Clearly the provincial officials would like to see a negotiated arrangement whereby they could provide the services which they know are needed and which the First Nations are requesting:

> With the devolution of Indian Affairs it seems that the [province wide Indian organization] would prefer, would very much prefer, that Bands don't individually work out their agreements. But Bands don't feel that way. The Bands want to continue to request assistance from the department, I know that, particularly from the aboriginal people on our different staffs. They're going to continue to request the types of service that they've had to date.

## Future Considerations

The participants were asked what they saw for the future of the relationship between First Nation education and provincial departments of education. Essentially, their responses could be divided into three categories. There were a group of people, most often First Nation administrators, who believed that things are fine as they are. A second group, composed primarily of province wide Indian organization administrators felt that the future would see the development of increased First Nation control and possibly parallel Indian systems of education on a provincial scale. The final group composed mainly of provincial administrators and Tribal Council administrators saw the need to regularize the relationship in some way, possibly through legislative change.

## Status Quo

Many of the First Nations administrators are happy with the present state of services they receive from the provincial department of education. Although they recognize that the present relationships are based upon the good will of the various personalities involved, they do not see the need for any formalization of the relationship. The desire to protect the treaty promise of education and preserve the federal fiduciary responsibility is very strong and they do not want anything to jeopardize the treaty promises:

> The relationships which we have with surrounding school divisions are based upon people working together for their mutual good rather than any policy base. Since this arrangement is working very well at this time, I do not see a need for formalized policy. In fact, a formal policy might not be a good idea at this time. It could give the federal government the idea that they need no longer be responsible for Indian education and that they could turn this responsibility over to the province. This would have serious impact on Treaty and the federal government's fiduciary responsibility.

First Nations are also at the point of developing their jurisdiction over education as part of the inherent right to self-government. Any mention of possibly sharing responsibility or giving up authority to the provinces makes them extremely nervous:

> At this point I am happy with what we have. Because if we get into formalities then we're getting a little bit more into _____ Ed. A

> little bit more into their umbrella, and I don't think we need that. For the simple reason that the long term vision of First Nations is not to be under the umbrella of any one, but to have their own. Not to be under the umbrella of any provincial, white organization or Native organization. That power must be decentralized to the Band.

## Developing First Nation Jurisdiction

As pointed out earlier there is a definite split between those who believe that First Nation jurisdiction means control of Indian education by the province wide Indian organizations, and those who believe that First Nation control means actual control and administration of education at the community level. This division of opinion is reflected in the comments made by both First Nation administrators and those administrators at the province wide Indian organization level.

When discussing the development of First Nation jurisdiction, one First Nation administrator expressed this division of opinion as to where jurisdiction lies:

> If we think best case scenario, it would be at the Band level. However, realistically, it is my view that it is going to end up as at a Native provincial level as the governing body. I think ultimately [the province wide Indian organization] will speak on behalf of Native education and Native Band schools. What kind of power they have, what they can do, what their relationship with _____ Ed. will be, I'm not sure. They're going to follow the parallel structure so everything _____ Ed. does now, they will do, and I'm sure that that's going to happen.

Another First Nation administrator expressed a desire for First Nations to combine for specific purposes. However, the autonomy of the First Nation and the protection of treaty provisions would have to figure prominently in any agreement:

> Around here the big thing would be Treaties, you would have to be careful of the Treaties cause that's always an issue. . . . I think once the Bands figure out how to exercise self-government they would give over some certain responsibilities to regional authorities to be responsible for education . . . I don't think it would become the _____ Indian Education Department but I think there would be some sort of joint body between the three Treaty areas working together on joint projects.

Some First Nations envisage a time when their jurisdiction will be recognized and they will be able to negotiate with the provincial department of education, or the province wide Indian organization, or any other organization for the provision of educational services to their children:

> I see a time when all monies for education and administration will be decentralized directly to the Band, bypassing the [province wide Indian organization]. They will then have to offer services for sale to the Bands. I also think that eventually First Nations will issue their own school achievement certificates and that these will be recognized by provincial institutions. Some First Nations may decide to work together to negotiate some of these issues but the combining will be done on the basis of need and mutual recognition of the value of combining forces for some things.

The desire to be independent and to exercise real jurisdiction and control over their children's education is clearly demonstrated by this statement made by a First Nation administrator:

> We would like to be the ones to step out and maybe challenge some of the existing practices in provincial and Native education. So I believe, I don't know in how many years, I don't want to put a time frame on it, but there will come a time when we can accredit, we can give grade twelve high school leaving diplomas to our

> students and they will be accepted at post-secondary institutions. If we get that support, why do we need _____ Ed.? If we issue these high school leaving diplomas, and they're accepted at various post-secondary institutions, our relationship with _____ Ed. will evolve into something as an equal. Now, we're talking jurisdiction, now we're talking about First Nations government to government. That's how I see this thing evolving.

## Legislative Change

One of the ways which many of the participants mentioned, of making the relationship between First Nation schools and provincial departments of education more permanent and predictable was legislative change. However, any attempt to regularize the relationship by means of legislation must recognize the inherent right of First Nations to be self-governing:

> In order to make relationships between Band schools and _____ Ed. easier, there needs to be legislative change. A recognition in the School Act of Band schools and the services which might be provided to them would be a good start to improving the relationship. However, this is only a temporary step until such time as the self-government process is more fully developed. This would be similar to the recognition given self-government in the constitution. There also has to be a change to the Indian Act to allow contribution directly to Bands for the operation of their schools. This too would be temporary subject to the development of self-government and the demise of the Indian Act.

The participants had a variety of opinions about the source of this legislation. In Chapter IV legislation originating with the First Nations was discussed. However, what most participants discussed were changes in provincial legislation which would recognize the existence of First Nation schools. At first glance that may seem strange since education of

Indians is a federal responsibility. The issue of where the legislation should originate is clearly stated by one of the participants:

> People get so wrapped up in the rules and regulations and so yea I think its gotta be legislated. But who's going to legislate it? The provincial house can't legislate against the feds, and the feds, because of section 93, are terrified of legislating against provinces.

Many First Nation administrators believe that it is provincial legislation which must change and do not see this as a contradiction or as a surrendering of jurisdiction but merely as an administrative arrangement which would ensure service delivery:

> I think there has to be a move in the School Act to recognize Band -- the jurisdiction of Bands to operate Band schools and it would have to be -- the School Act wouldn't have any legislation over it, that's not how it would work, but what it would be is a recognition of the Band -- Indian schools operating within the province's boundaries. . . . Kind of like the idea of separate schools being recognized in the School Act, you would have some other section that recognizes Indian education in the Act. It would be a recognition that Bands have jurisdiction to operate and develop schools on the reserve and even to build a relationship with provincial school systems, tuition agreements and those types of things.

Other First Nation administrators want some kind of legislated arrangement in place so that it is clear to all participants where jurisdiction lies:

> I know education is a federal jurisdiction and the move to self-government would take that jurisdiction to the Band at some point. But there may have to be some sort of an Act or federal school organization to take care of some of these things.

They feel that once this is established then work on establishing relationships can proceed:

> There may be a practical reason for it. Just to clarify what the _____ Ed. is and what it isn't. And if that means that to legislate clarification of areas of jurisdiction so that the _____ Ed. doesn't have to worry in certain areas and Bands don't have to worry about _____ Ed. using their official control over education as coming in and complaining, straightening out or not recognizing certain programs, then that may be helpful.

Clarifying the rights of First Nations and establishing jurisdictional areas is also seen as an important outcome of legislative recognition:

> I expect there'll be more agreements with the provinces, particularly in education, when self-government comes along. Otherwise how are we going to know where you can operate, where you can't operate. And in fact how will you get the help you require?

Once again it was made clear that this can only happen as long as the First Nations are involved in constructing the legislation and occupy a position of equality in any negotiations:

> As long as both partners have equal say into what goes into that legislation. It's not just from a _____ Ed. perspective, this is how we view Band schools, this is how we'll write them into our charter, I could not accept that. If it's mutually agreeable what goes into that charter, I have no problem with that.

Some provincial administrators have taken a purely functional point of view regarding the relationship between themselves and the First Nations. They would like to see legislation or policy developed which would clearly spell out what services can be provided to First Nations and what the relationship should be:

> I do believe that there's going to have to be some more, I think, formal arrangements made for providing the services; and we only provide a service to provincial schools. I think that same service can be offered to Band schools and Band schools could expect the same service if there was agreements made at the provincial level. I think that would benefit both groups.

### Summary

All of the participant groups, including the provincial officials, agree that the First Nations have the authority and jurisdiction to operate their own schools. They also agree that some co-operation between the First Nation schools and the provincial department of education is essential. How this working arrangement is to be achieved is a source of dissension. Opinions among the Indian community range from establishing a totally separate and independent province wide Indian education system to negotiating with the province, to having First Nation schools join the provincial system and lobby for change from inside.

An issue which arose was the different interpretations of jurisdiction being made by the individual First Nations and the province wide Indian organizations. While the Indian organizations state that they consider their member First Nations to be paramount, they are negotiating with the provincial governments as the representative body for all the member organizations. However, when this issue is discussed with the First Nation administrators they are emphatic that the province wide Indian organization does not speak for them. They are concerned with protecting their own jurisdiction not only from the province but even from their own province wide organization.

This assertion of absolute independence does not always hold true. The individual First Nations recognize that there is strength in numbers and they wish to combine forces to lobby for issues of concern to them. This they see as a role for the province wide Indian organization. However, they do not want these advocacy groups to develop into administrative bodies.

Despite this, there seems to be a definite trend in two of the provinces examined for the province wide Indian organization to become an administrative body. This is partly due to the provincial departments of education who wishes to negotiate with only one group instead of 50 or 60 individual First Nations. The perception is that the province wide Indian organization speaks for all First Nations even though they themselves deny it. However, in the opinion of many administrators the province wide Indian organizations have de-facto become administrative bodies.

In the future, First Nations are reluctant to suggest formalization of existing relationships which would jeopardize the treaty promises of the fiduciary responsibility of the federal government. Some participants feel that the development of a parallel Indian education system will be necessary before true negotiations based on equality can occur. Other participants suggest that there should be legislative change to ensure continued service delivery.

# CHAPTER VIII

# SUMMARY, CHALLENGES AND RECOMMENDATIONS

This chapter includes discussion of three major topics. First is a review of the original research questions stated in Chapter I and the results of those questions based on the responses of participants and the analysis of documents. Second, I reflect on some of the challenges and issues which arose from the data and which were brought forward by the participants. Third, some recommendations for the future development of the relationship between First Nation schools and provincial departments of education are provided. I also make some suggestions for future research.

It is my belief that unless steps are taken in the near future to resolve many of the issues surrounding Indian schooling and Indian self-government, there will be a destabilization in the relationships between the Indian community and the rest of Canada. Some of these effects have already become apparent and it should also be apparent that the establishment of some negotiated political arrangement is imperative.

## Review of the Research Questions

The research questions were framed as follows:

1. Examine present legislation and policy statements related to Indian education and identify issues.

2. Document the understandings of representatives of provincial

departments of education, education officials of the province wide Indian organizations, and representatives of First Nation education systems, regarding the present and future connections and associations between First Nations and provincial departments of education.

3. Identify and examine policy initiatives and alternatives which the participants suggest to (a) make the articulation processes easier and more successful, and (b) envisage the foci of future developments in the relationship.

The results discussed below are a summary of participants' comments and insights, and document analysis regarding each of the research questions. The reader is again advised that these findings are the constructions of the most informed and knowledgeable persons to whom I spoke. It is not implied that these findings are generalizable to every situation but it is hoped that they may offer insight and guidance to those who find themselves in similar circumstances. The participants' opinions were diverse and centred around their particular administrative structures and the types of relationships in which they were currently engaged.

## Legislation and Policy

The first research question dealt with legislation and policy issues. The review of available legislation and policy from the three provinces involved in the study shows that there is very little provincial legislation that deals directly with Indian education. This is because the education of Indians on reserve is a federal responsibility. However, there are a number of policy statements available which provide insight as to how the provinces are dealing with the large number of urban Indians or on-reserve Indian students who are attending their schools through tuition agreements. Indeed most legislative comments related to Indian education concern tuition agreements between First Nations and provincial school divisions. The type, costs and signatories are described in legislation.

The policy statements are mostly related to curriculum changes or adaptations to deal more positively with subjects related to Indians. All of the provinces are actively engaged in attempting to integrate content related to Indians into their regular curricula. Some have accomplished this by contracting with Indian organizations, and some have formed co-operative working relationships with Indian groups to produce curricular material. Unfortunately, much of the curriculum development tends to present Indian societies as:

> Static, quaint and picturesque, rather than vibrant, modern, and adaptive. The effect on Native students is minimal, since they know that is not the way it is; but the effect on non-Native students is to reinforce inaccurate stereotypes of Native people.
> (Pauls, 1996, p. 36)

Legislation and policy developed by Indian groups was also examined. Some of the Indian organizations have constituted themselves as legislative bodies and are, therefore, equally capable of producing law as are provincial governments. Recognition of that law is sometimes problematic since even many of the member First Nations do not recognize the legislative control of the province wide Indian organizations. Indian legislation regarding education has focused on the inherent right of First Nations to establish their own Indian education system.

## Participants and Working Relationships

The second research question concerned the existing connections and associations between the various participant groups and the provincial departments of education. Each of the groups interviewed had diverse opinions about the current relationship and the future of that relationship. Generally, each of the groups agreed that there needed to be one but they were unable to define exactly what the relationship was or should be. Such a variety of opinion was expressed that it was often difficult to find any commonalty.

### First Nations

All of the First Nations administrators interviewed had developed individual working relationships based on the need they saw for services from the provincial department of education. Since there is no legislative or policy base for such a relationship each one is unique. In some cases the working relationship is defined in tuition agreements. In some cases, the working relationship has developed over time as a result of interaction between administrators.

The First Nations administrators interviewed also had different ideas about what the relationship should be. Some sought total independence from the province while some sought total inclusion into provincial organizations. Other administrators fell along the continuum between those two extremes.

Most of the First Nation administrators saw the need for First Nations to work together to lobby for legislative or policy change. However, they were reluctant to give up jurisdiction or control to any organization including the province wide Indian organizations. Many First Nations administrators preferred the status quo since to attempt to formalize relationships may endanger the treaty relationship and the fiduciary responsibility of the federal government.

### Province Wide Indian Organizations

Administrators in the province wide Indian organizations were more uniform in their views. They saw the need for First Nations to organize into cohesive groups which would be able to speak for member organizations. They felt that negotiation from a position of strength was the only way to ensure that needed services would continue to be provided. In some cases they determined that the only way to do that was to establish an independent province wide Indian education system parallel with the education system of the province. Once this parallel system was established then negotiations could proceed on the basis of equality.

The province wide Indian organizations all said that they were presently a lobby group and their member First Nations were paramount. However, in order to lobby effectively, they also recognized the need to be able to negotiate on behalf of First Nations -- and that means that they needed delegated authority. How to exercise authority while still respecting member autonomy is a question which has not yet been determined. Meanwhile the organizations are being asked to do more and more and are, therefore, taking on an administrative as well as a lobbying role. The administrators in the province wide Indian organizations are aware that the member First Nations do not want them to become an administrative body and yet, in order to meet the demands being made of them, they need to have some administrative authority. This issue remains to be resolved.

### Provincial Departments of Education

Provincial administrators would also like to clarify the relationship between themselves and First Nation operated schools. This group of administrators is less interested in the political nature of the development of self-government than they are in the day to day relationships between themselves and First Nation schools. This gives them much in common with First Nation administrators who are trying to provide the best educational experience possible for their students.

Nonetheless the provincial administrators see a need for a policy or legislative basis for provision of services. Although they are willing to negotiate directly with First Nations their efforts are often viewed with suspicion as attempts to extend provincial jurisdiction over First Nation schools.

In some cases the provincial government has concluded an agreement with the province wide Indian organization stating that any negotiations have to be between the provincial department of education and the province wide Indian organization. This restricts the department of education's ability to deal directly with First Nations. As a result, the provincial administrators will respond to requests from the First Nation school but will not initiate contact.

## Future Policy Initiatives

The third research question dealt with policy initiatives and the future of First Nation/provincial relationships. Once again there was considerable variation of opinion as to the future of First Nation/provincial relations. With the exception of the province wide Indian organizations, who were unanimous in their support for a separate Indian education system, there were no clear group preferred options.

Many of the participants at both the First Nation and the provincial levels preferred the status quo. That is, it was easier for them to continue to meet the needs of First Nations schools on an ad hoc basis rather than attempting to formalize the relationship. They preferred this option since formalization suggested the examination and resolution of the issues of jurisdiction and control and no one wanted to raise these issues for fear of interfering with the already successful day to day operation of the schools. Nor do they wish to deal with the issues of treaty promises and the federal fiduciary responsibility since those issues cannot be resolved at the local level.

All of the province wide Indian organization officials preferred the establishment of a separate and province wide Indian education system parallel to the provincial department of education. They saw this as a legitimate exercise of the inherent right to self-government. For them, it is necessary to exercise the inherent right before the First Nation schools systems are swallowed by the province. They believed that negotiations could only occur on the basis of two equal partners. Any negotiations with the provincial department of education would have to be based on this underlying principle, and the way to establish equality was to establish a separate system.

Many of the participants suggested that some kind of legislative change was necessary in order to preserve present relationships and service delivery, and also to formalize future contacts. However, participants were unable to say how this legislative change could be accomplished. They did not want the province to make any legislative inroads into Indian education since to do so would weaken the federal responsibility and the treaty promise. On the other hand federal legislation in the area would prove to be ineffective since they would be unable to influence the provincial department of education. First Nation legislation was also a consideration but then the problem of independence versus a concerted voice arises.

Even provincial administrators would like to see a formalization of the relationship they have with First Nation schools. Similarly, they have no idea how this could be accomplished due to the mix of jurisdictions and constitutional authority.

## Challenges and Issues

Participants provided a variety of examples of relationships with the provincial department of education which they related to their own experience. However, the specific examples which participants gave were often symptomatic of larger problems or circumstances of which the participants may or may not have been aware. These underlying themes are: (a) the dilemma between preservation of treaty and self-government, (b) political issues of representation and, (c) a desire for some relationship with the provincial authorities.

### Self-government and Treaty Preservation

While few of the participants in this study commented directly on the difficulties in seeking both self-government and treaty preservation, I believe that this is at the heart of many of the problems described by participants. The difficulties lie in the interpretation of the meaning of treaties and the content of treaties. Elders say, on the basis of oral tradition, that their ancestors never gave up the right to be self-governing Nations. Elders also point out that the treaties contained promises that were designed to protect and preserve the Indians from the effects of settlement and settlers.

The Crown interpreted the treaties as surrenders of aboriginal title to the land and its resources. A trust relationship was established to manage Indian lands and monies, and to protect Indians from the negative effects of settlement. The reasons for the trust relationship seemed altruistic but it was put into effect because the Crown did not believe that the Indians were capable of looking after themselves and therefore needed to be placed in a position of being wards. However, to many Indian people the trust relationship is still a very important one. They believe that the Crown made promises to look after the Indians and ensure their survival.

The promises made in treaties have never been completely fulfilled and the trust relationship has been detrimental to the development of First Nations. Some Indian leaders today are saying that First Nations have been patient long enough in terms of waiting for the Crown to fulfill its responsibilities. They are now saying it is time to force the Crown into fulfilling the promises made in treaties or to start to assert the inherent right to self-government which, according to the Elders, was never given up. However, if a Nation agrees to let another Nation manage its affairs it is automatically in a subordinate position. By accepting wardship, it appears that the ability to become self-governing is limited.

A similar situation exists for First Nations in the United States. Their attempts at re-establishing their own governments have been frustrated by their status as wards of the federal government. According to Downing (1993) this is the basic dilemma: "Sovereignty is the right to govern one's own internal affairs. The stumbling points for American Indians rests with their trust status." (p. 99).

If self-government is to be exercised then the trust responsibility would seem to be abrogated. If the treaty and trust responsibilities are fully activated then Indians will have given up the right to be self-governing Nations. This is the dilemma with which many of the respondents were struggling.

If First Nation schools wish to exercise their jurisdiction, which they believe to be a part of the inherent right to self-government which was never surrendered, then there are some who accuse them of jeopardizing the treaty relationship. If the treaty relationship must be continued then the best that First Nations can hope for is local administration of federal education programs. Trying to steer a course that will increase the jurisdiction of First Nations while at the same time avoid wrecking the treaty relationship has become a preoccupation for many Indian administrators.

The effect of this struggle is clearly exemplified in many of the responses of participants. They clearly wish to extend their own jurisdiction over education but do not want to take the step of endangering the treaty relationship.

### Possible Solutions

A possible solution to these difficulties is illustrated in the United States where some state governments and some tribes have decided to avoid the issue of self-governance and have decided to co-operate on issues that are of mutual concern. Wilkins (1994) provides the example of the State of Arizona and the Navajo Nation. The parties agreed that the following five principles would guide their negotiations:

> First, seek to find common ground on which to base relations. . . . Second, seek compromises through creative cross-issue development. . . . Third, avoid ultimatums requiring jurisdictional

> concessions. . . . Fourth, directly include all persons to be affected by the agreement in the negotiating process. . . . Fifth, the parties must accept as legitimate the existing legal and factual framework. (pp. 476-477)

By proceeding to discuss common issues in the spirit of equality these parties have managed to side step the self-government issue and proceed to conclude agreements that are mutually beneficial.

In Canada, the Minister of Indian Affairs introduced a policy in November of 1995 which will allow for greater control by Indian peoples of programs like education, welfare, health, child protection services, civil law, etc. Two problems exist with this policy. The first is that although it states that self-government is an inherent right it is limiting the scope and variety of powers it is willing to "allow" First Nations to assume. This means that the government is acting as if the right to self-government is a delegated right, not an inherent one. Secondly, the Minister has said that if First Nations decide to take increased control in certain areas then the Minister must be relieved of the fiduciary responsibility. How that could be accomplished in light of the promises occurring in treaty and the legislative trust responsibility contained in the Indian Act has not yet been determined. However, the Minister has attempted to steer a course between the treaty responsibilities and the inherent right to self-government.

The discussion above indicated that First Nations face an either/or proposition. Either First Nations can exercise self-government or they can remain wards under treaty. The American experience illustrated above shows that there may be a middle ground. Also, another positive point in the Minister of Indian Affairs 1995 policy is that the systems of self-government can be worked out on a community by community basis. This means that there is some flexibility in the kind of arrangements that could be made. For some First Nations, increasing the amount of control they have over their daily lives may be enough. This would enable them to exercise powers over certain aspects of their lives without having to choose between self-government and treaty.

## Political Representation

Closely related to the concept of the inherent right to self-government is the idea of local jurisdiction and authority. Many First Nations believe that, as signatories to treaties, they were acting as sovereign Nations. Therefore, if they are going to re-assert the inherent right then they believe they should be dealing with other governments on a one to one basis. However, it is also obvious that some Indian communities simply do not have the population to make one to one negotiation a reasonable solution. They, therefore, recognize that combining with other communities is a useful way to make their views known in a more forceful manner.

Herein lies the dilemma. When groups of people decide to co-operate in a larger organization they inevitably have to be willing to negotiate their position with other member groups. However, as individual First Nations who suffered a loss of independence and are just now taking steps to recover that independence, any discussion of giving up authority or jurisdiction or compromising is anathema.

Many of the First Nation administrators I talked to were also uncomfortable with the structure of the Tribal Councils or province wide Indian organizations. In particular, many of the Tribal Councils are a creation of the Department of Indian Affairs designed so that the Department would have an organization to which to devolve program responsibility. As such they do not always reflect the diversity of their member organizations.

The province wide Indian organizations have been established with reference to the primacy of individual First Nations. However, in the eyes of the First Nation administrators, they do not always function that way. There is deep suspicion that these organizations are trying to establish a bureaucracy that will take the place of the fading Department of Indian Affairs. Once again, this would involve the loss of jurisdiction and authority at the local level and, for the most part, the First Nations are unwilling to allow this.

The province wide Indian organizations recognize that in order to advance the concerns of all Indian people it is necessary to take collective rather than individual action. The provincial governments and the federal government are more willing to listen to a strong voice which is supported by the individual member organizations than they are to a multitude of voices from many small organizations. The First Nations recognize this as well. The problem is to find ways to allow the province wide Indian organizations the ability to lobby for common issues without their becoming administrative bodies.

While these difficulties need to be sorted out in the Indian community, the potential partners for negotiation in the provincial governments and the federal government are waiting for one group with whom to discuss relationships. The fact that there are a number of First Nations who have different perspectives on issues is not recognized by these governments. The fact that no clear "Indian" position has been put forward is taken as an indication of confusion and dissent in the Indian community. This gives the governments the opportunity to delay substantial negotiations on the basis that there is no one with whom to negotiate.

These two issues -- sorting out representation in the Indian community and other governments' desire to negotiate with an all encompassing group -- has meant that any efforts to formalize the educational relationships between First Nations and the provincial departments of education have been sidetracked by these political divisions. It is within this context that First Nation educational administrators are attempting to improve educational opportunities for their students while ensuring that the basic requirements of curriculum, teacher certification, and evaluation are continued.

### Possible Solutions

Models for overcoming the jurisdiction difficulty are available in the history of Indian peoples in North America. The Six Nations Confederacy is a prime example of how a number of diverse organizations were able to work together for common goals. While each of the more than fifty groups which belonged to the Confederacy had their own Chief, they were able to meet together and discuss common concerns (Dickason, 1992, p. 71). At these meetings decisions were made by consensus and, as a result, no one was able to suggest that their jurisdiction had been infringed upon. Perhaps what modern Indian leaders should consider is a return to more traditional patterns of governance and decision making.

The present Indian organizations, including the local Chiefs and Councils, are based upon a European hierarchical model. Indian societies traditionally were more egalitarian and no one exercised power or authority as a result of occupying a position. Rather, power and authority were exercised by persons who were respected for their abilities. As one of the participants in this study stated:

> I think that when people start talking about a regional body and saying who will be the Director, then I think you're in trouble because nobody likes that.

Perhaps what needs to happen is a redesign of Indian organizations that more closely reflects traditional patterns and which is structured to accomplish specific tasks rather than being hierarchical.

## Desired Relationships

There is a desire among the First Nations education systems for some links between themselves and the provincial departments of education. The current extent and state of these links were described earlier. In fact there are a number of relationships established at the local level which allows teacher certification, student achievement results, high school course credit, locally developed course options, etc. These relationships currently exist in a kind of limbo, neither supported by policy or legislation by the provincial governments nor by the Indian governments.

There are many within the province wide Indian organizations who believe that it is time to develop Indian controlled institutions which are not referenced to provincial models. However, in the field, the First Nation representatives want to ensure that services are provided to their students and do not necessarily see the need for new institutions. At the same time, they recognize the need to re-establish the inherent right to self-government which would, of course, include control of education. How to do this without disrupting service seems to be the difficulty.

All of the participants agreed that the solution to the problem is negotiations with the provincial departments of education. The difference between the local administrators and the province wide Indian organization administrators is one of timing. The First Nation administrators believe that negotiations can be ongoing as long as they are based on mutual respect and recognition of each others' jurisdiction. The province wide Indian organizations believe that effective negotiations cannot occur until the equality of jurisdiction is recognized. In order for this to be accomplished they believe that it will be necessary to establish corresponding Indian controlled educational structures before one to one negotiations with the provinces can occur.

### Possible Solutions

Once again, the Arizona/Navajo Nation agreement mentioned earlier seems like a possible solution. Formal agreements are possible without addressing the self-government issue. Formal written agreements should be possible between individual First Nation education systems and the provincial department of education or between the province wide Indian organization and the provincial department of education that outline what their relationship should be. Indeed one of the participants from one of the province wide Indian organizations indicated that there is a memorandum of understanding being discussed right now which defines a relationship. Other participants in the study indicated that they were formalizing their relationship by inclusion of the type and nature of services to be provided within tuition agreements. Some of these were very specific and committed each side to certain responsibilities.

## Summary of Challenges and Issues

The issues can be summarized as a series of choices or opposite pairs. First of all there is the situation of power vs. powerlessness. As a result of the paternalistic attitude of the religious institutions and successive Canadian governments the Indian people were systematically deprived of the ability and the right to govern themselves. As the colonial period is coming to an end and the First Nations are assuming the power over their own lives they are in a dilemma. They wish to protect their newly regained power and yet they are not comfortable enough in the exercise of that power to overcome the effects of powerlessness which has been ingrained in them by colonial institutions. This has meant that progress in exercising power has sometimes been slow and its implementation has been diverse from community to community.

Secondly, the pair of responses to colonialism suggested by Memmi (1990) seems to be a reality. This pair consists of the desire to become like the colonizer and recognized by the colonizer as opposed to rejecting the colonizer and their institutions in favour of rebuilding traditional structures or inventing new ones referenced to the Indian people themselves. Once again this has lead to a delay in action since some First Nations who believe they are acting in the best interests of their clientele are criticized by others for becoming apples (red on the outside, white on the inside). Those who say new institutions are necessary are also criticized for wasting time and money and for not being willing to co-operate. Considering these extremes, action by any administrator is made extremely difficult.

The third oppositional pair is the dichotomy between co-operation and hesitation. This has two sides. First there is the desire to co-operate with the provincial agencies so that the interests of the students can be met. This is opposed to the giving up of jurisdiction which this implies. From a strictly administrative point of view the First Nations administrators know that it is necessary to receive some services from the province so that they can provide services to students. However in order to do this they may have to surrender, or appear to surrender, jurisdiction and this prevents them from acting. The second aspect to this oppositional pair is the recognition that collective action will likely be more effective than individual action but, once again, the reluctance to cede any authority or jurisdiction to a collective political body is an obstacle to combining for common purposes and action.

Although these choices have been represented as oppositional pairs, in fact they are ends of continua. The participants' comments indicate that the actions they have taken are placed somewhere between the two extremes of any of the themes discussed above. However, while the participants are concerned with arriving at working solutions which will allow for the provision of services, they are not necessarily aware of the fact that they are working along a continuum. The purpose in stating the themes in terms of oppositional pairs is to frame the day to day decisions in a more conceptualized way and to show that these are some of the decisions which may have to be made in the future.

The reader is reminded of the statements made in Chapter I by Armitage. It was suggested that it may be necessary for those societies emerging from colonialism to enter into a period of isolation in order to resurrect traditional patterns of governance or to establish new ones referenced to the colonized, not the colonizer. The province wide Indian organizations see the need for separate Indian controlled institutions but they seem to be constructing these on the basis of European models rather than Native ones.

## Recommendations

Most of the administrators who participated in this study felt that there is a need for some type of relationship with the provincial department of education. The extent of that relationship is debated. Some organizations feel that any relationship should be temporary until parallel Indian structures can be established. Some feel that the existing ties between themselves and the provincial departments of education should be strengthened. As a result of the discussions I have had with a variety of administrators engaged in Indian education and with provincial department of education counterparts, there are some changes required to the present relationship. The present relationships are based upon personalities and the desire of the two parties to do what is best. However, both sides are looking for ways in which to make the relationship more formal and lasting. Taking into account these wishes and the content of the themes presented above, the following is a series of recommendations to improve the present working relationship.

### Equality

Before any kind of formal relationship can proceed or be negotiated the provincial department of education must be willing to come to the table as one among equals. From the provincial viewpoint it is difficult to understand why this would be necessary, but a brief examination of the history of Indian/White relationships indicates that Indians have always been treated as subordinate. In this new age of self-government they are demanding to be treated as equals.

The question becomes who shall the provincial department of education call its equal. The province wide Indian organizations are advocating a separate Indian education system so that they would be the ones with whom equality discussions could occur. Some of the First Nations are saying, "No, we are the ones with whom you should be conducting equality discussions." The question of equality carries with it the baggage of the inherent right to self-government and the difficulty of securing the treaty promises. Instead of trying to deal with these issues, which often sidetrack the desire to provide services, the departments of education should examine some alternate ways of recognizing jurisdiction. Once again, one is reminded of the Navajo/State of Arizona agreement. In fact the province wide Indian organizations are in the process of developing memoranda of understanding which would define the working relationship between themselves and the departments of education. These documents define working relationships while carefully sidestepping the issue of self-government.

## Legislation/Policy

As stated earlier the present relationships between First Nation schools and provincial departments of education is informal. Often times services are provided at the discretion of provincial officials and could be withdrawn. There must be some recognition of the existence of First Nations schools, and the services that will be provided to them, in legislation or policy. The problem with legislation is that education of Indians is a federal responsibility while the education for the rest of the population is a provincial responsibility.

Despite this difficulty, an amendment to Section 114 (1) of the Indian Act (Hawley, 1990) should occur which will make it clear that the government of Canada and the Department of Indian Affairs can enter into agreement with First Nations for the provision of education. This would recognize that First Nations have jurisdiction over the education of their children. Amendments could also be made to the provincial School Acts or Education Acts which would recognize the existence of First Nation schools. Already the legislation indicates that provincial school divisions can contract with Indian Bands for the provision of educational services. The next logical step would be to recognize the existence of First Nation schools without suggesting that the province has any jurisdictional control in those schools. This recognition would assist both parties when determining what kinds of services and relationships should exist between them.

Failing legislative change, formalization of policy is also possible. As was indicated in Chapter V, it is not infrequent that policy changes precede legislative ones. The provinces, in consultation with First Nations, should clearly indicate what services they are willing to provide and under what circumstances. By formalizing the relationship in this way everyone involved would have equal access to services and jurisdiction would be recognized and preserved.

### Indian Co-operation

There are obviously issues which require the organization of more than one First Nation to resolve. First Nations recognize that by working together they would be able to accomplish more than by speaking independently. The various province wide Indian organizations have a positive history of lobbying government on issues that are of concern to many First Nations.

The difficulty that has arisen recently is that the province wide Indian organizations have increasingly assumed an administrative function. This is partly due to the increasingly complexity of the issues being dealt with and partly because they have received encouragement in this direction from the federal and provincial governments. The move in the direction of an administrative body is widely disapproved of by First Nation administrators.

It is recommended that First Nations seek common issues on which they decide to co-operate. These co-operative groups may not be structured along present Tribal Council lines or even the province wide Indian organization. The groups may also be ad hoc in the sense that when an issue has been resolved the group dissolves. This kind of co-operation is much closer to traditional models and is likely to better meet the needs of Indian people without creating a separate administrative body.

## Further Research

The effect of self-government and the trust responsibility identified in the treaties on the day to day operation of First Nation schools must be examined in greater detail. The relationship between self-government and the treaties must be clarified so that First Nation education administrators do not take steps that endanger either.

Further research must be conducted into traditional patterns of decision making and administration. If First Nation schools, are to develop in different directions then incorporation of traditional patterns is imperative. If First Nations decide that rejection of the colonizer is the direction they wish to go then they must be prepared to displace the existing system with an agreed upon replacement.

This study has not examined any issues related to urban Indian people or Metis people. The issues surrounding administrative control for education of these people needs to be examined.

## Personal Insights

When I began this study, I assumed that the issue of relationships between First Nation schools and provincial departments of education could be resolved in a straightforward manner. I was surprised by the variety and the extent of present services and by the determination of First Nation administrators to protect the treaty relationship. This desire makes the structure of future relationships between First Nations and the provinces anything but straightforward. I now realize that some resolution of the difficulty between treaty/trust and self-government must be worked out before substantial progress can be made on developing a relationship.

I also started this study with some understanding of the difficulty between the vision of the future held by province wide Indian organizations and that held by individual First Nations. However, as I proceeded with the analysis of the data, it became clear to me that the evident power struggles between First Nations and their own political organizations are only symptoms of a larger problem. The problem is that the present institutions and practices have been determined by Indian Affairs as an extension of their own organization. These patterns do not always fit the needs of First Nations. I believe that it will be necessary for First Nations organizations to develop models of governance which will more closely reflect traditional patterns. Only in this way will they be able to assert the inherent right to self-government.

## Summary

In the future there will have to be legislative change to recognize the fact the First Nations schools exist and require services and to define what these services might be. There will also have to be direct negotiation between the provincial education authorities and the First Nation schools. The province wide Indian organizations can lobby on behalf of First Nations and may be able to provide certain services. However, individual First Nations should have the freedom to choose to purchase services from the province wide Indian organization or from other service providers in the province.

The themes of self-government versus treaty preservation, political representation, and relationships need to be resolved in the future. These issues are difficult and will not be resolved quickly. However, this should not prevent First Nations from proceeding to negotiate arrangements which will be beneficial in terms of the present provision of services. As these informal or semi-formal arrangements become a reality they may form the basis for future more formal arrangements. The concern of First Nations, and particularly province wide Indian organizations, is that the present arrangements are flexible enough that they do not jeopardize future recognition and implementation of the inherent right to self-government.

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# APPENDICES

## APPENDIX I: CONFORMATION OF INTERVIEW LETTER

[Date]

[address]

Dear [name]

This letter will confirm our recent telephone conversation. I was very pleased that you will be able to speak with me on April 21 at 9:00 AM in your office. I believe I have already sent you a one page summary of the research which I intend to conduct but I have attached another copy just in case.

The interview will be conducted in a discussion type of format without a set number or type of questions. I hope that we will be able to discuss the current and future relationships between the provincial department of education and the Band controlled schools. I also mentioned to you that I would like to tape the interview. I will provide you with a transcript of the interview and you will have an opportunity to change, withhold or modify any of your comments, and I will return the tape to you. If any of the interview is used in my thesis, it will be quoted anonymously. However, I hope I made it quite plain that it is your choice as to whether you permit the interview to be taped or not.

I look forward to meeting you and to discussing the state of the relationship in ________. Thank-you for your co-operation.

Sincerely

Syd Pauls

Short Title of Study: Relationships Between Band Controlled Schools and Provincial Departments of Education

## Purpose:

The purpose of the research is to examine participants' perception of the present state of relationships between Band controlled schools and provincial departments of education in Alberta, Saskatchewan and Manitoba. Participants will be asked to describe the existing relationship as well as provide their thoughts regarding the future development of the relationship.

## Methodology:

This research is qualitative in nature and will not involve large numbers of questionnaires or statistical analysis. The researcher will examine the various Education Acts or similar legislation in each of the Western provinces as well as policy statements from the provincial governments and from the federal Department of Indian Affairs to determine what references, if any, there are regarding Band controlled schools.

The primary data gathering technique will be a series of interviews. The researcher will interview a representative of each Department of Education and a representative of the province wide Indian organizations in order to obtain a province wide perspective. The researcher will also conduct interviews with a select number of Bands in each province as well as with representatives from the regional offices of the Departments of Education in each province.

The researcher will interpret the interviewees' comments in light of the purpose of the research as stated above.

## Ethics:

The proposal has been submitted to the University of Alberta's ethics review committee and has been given approval. Any information which the participants provide will be held in the strictest confidence and no individual will be identified or identifiable in the study. Transcripts of interviews will be provided to participants before information is incorporated into the thesis and the participant will have the option, throughout the process, of changing or withholding any or all of their comments.

# APPENDIX II: INTERVIEW GUIDES

## Provincial Department of Education Administrators
## Interview Guide

1) What kinds of relationships do you presently have with the Band controlled schools?
    - jurisdictional issues
    - teacher certification
    - leaving certificates
    - certification of locally developed courses
    - standards
    - language of instruction
    - tuition agreements
    - other?

2) How could these relationship and this articulation process be made easier?
    - legislation changes?
    - policy development?
    - negotiations with province wide Indian organizations?
    - other?

3) What kind of future development would you like to see?
    - affiliate school Boards?
    - totally separate and parallel systems?
    - legislative recognition
    - other?

## Provincial Wide Indian Organization and
## First Nation Administrators
## Interview Guide

1) What kinds of relationships do you presently have with the provincial department of education?
   - jurisdictional issues
   - teacher certification
   - leaving certificates
   - standards
   - language of instruction
   - tuition agreements?
   - other?

2) How could these relationship and this articulation process be made easier?
   - legislation changes?
   - policy development?
   - negotiations with province wide Indian organizations?
   - other?

3) What kind of future development would you like to see?
   - affiliate school Boards?
   - totally separate and parallel systems?
   - legislative recognition
   - other?

# APPENDIX III: TRANSCRIPT LETTERS

## Confirmation Letter for Non Taped Interviews

[Date]

[address]

Dear [name]

First, let me apologize for the length of time it has taken me to provide you with this text. One thing that I have learned during this process is that I am not a fast typist. However, attached is a summary of our interview in text form. I have tried to write what I thought I heard you say. However, I may be quite incorrect. Please read the text carefully and feel free to make any corrections or additions that you feel are necessary. Because I was not allowed to tape the interview, the exact nature of your comments may have been lost in my writing. A process of correcting may be necessary before you are satisfied that I have got what you said correct. I'm sending you two copies of the text so that you can make notes on one and send it back to me for correction. I will then send you a copy of the corrected version so that you can again check for accuracy.

As I told you at the interview, you have the right to decided to withhold any or part of your comments or to add to or change anything you have said. Any information I use in my writing will be anonymous and you will not be identified in the dissertation.

I wish to thank-you for talking with me.

Sincerely

Syd Pauls

## Confirmation Letter for Taped Interviews

[date]

[address]

Dear [name]

I apologize for the length of time it has taken to provide this transcript. One thing that my research has shown me is that I am a very slow typist. However, attached is a transcript of our conversation. Please read the text carefully and feel free to make any corrections or additions that you feel are necessary.

As I told you at the interview, you have the right to decide to withhold any or part of your comments or to add to or change anything you have said. If you give final permission to proceed, any quotes I use in my writing will be anonymous and you will not be identified in the dissertation.

I wish to thank-you for talking with me on such short notice.

Sincerely

Syd Pauls